

98-84373-18

U.S. Congress

An act to provide for the
survey and disposal...

[Washington?]

[18--]

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AN ACT to provide for the survey and disposal of the public lands of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, viz:

CHAPTER I.

THE GENERAL LAND OFFICE.

SECTION 1. The Secretary of the Interior shall, in his discretion, exercise supervisory powers over the administration of all laws concerning the public lands, including mines, and over the survey and patenting of private land claims.

SEC. 2. There shall be in the Department of the Interior a Commissioner of the General Land Office, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of six thousand dollars per year.

SEC. 3. The Commissioner of the General Land Office shall perform or direct subject to the supervision of the Secretary of the Interior, all executive acts appertaining to the surveying and sale of the public lands of the United States, or in anywise respecting such public lands, and also such as relate to private claims of land, and the issuing of patents for all grants of land under the authority of the Government; and in such routine duties as may be assigned to his subordinates by the Commissioner their orders shall be considered as emanating from him, and shall have full force and effect as such.

SEC. 4. All returns relative to the public lands, and all official information or reports from officers in the public land service, shall be made to the Commissioner of the General Land Office, or to such officer as he may direct, and all the duties of said officers shall be performed under his authority and direction; and he shall have power to audit and settle all public accounts relative to the public lands; and upon the settlement of any such account, he shall certify the balance, and transmit the account, with the vouchers and certificate, to the First Comptroller of the Treasury, for his examination and decision thereon.

SEC. 5. The Commissioner of the General Land Office shall, when required by the President, or either House of Congress, make a plat of any land surveyed under the authority of the United States, and give such information respecting the public lands, and concerning the business of his office as shall be directed.

SEC. 6. The Commissioner of the General Land Office shall retain the charge of the seal heretofore adopted for the office, which may continue to be used, and of the records, books, papers and other property appertaining to the office.

SEC. 7. The Commissioner of the General Land Office is authorized to decide upon principles of equity and justice, as recognized in courts of equity, and in accordance with regulations to be settled by the Secretary of the Interior, the Attorney General, and the Commissioner conjointly, consistently with such principles, all cases of suspended entries of or locations upon public lands, which have arisen in the General Land Office since the twenty-sixth day of June, 1856, as well as all cases of a similar kind which may hereafter occur, embracing as well locations

with warrants or scrip as ordinary entries or sales, and including homestead entries and pre-emption locations, and cases where the law has been substantially complied with, and the error or informality arose from ignorance, accident, or mistake, which is satisfactorily explained; and the said Commissioner shall adjudge upon which of such cases patents shall issue.

SEC. 8. Every such adjudication shall be approved by the Secretary of the Interior and the Attorney General acting as a board, and shall operate only to divest the United States of the title to lands embraced thereby, without prejudice to the rights of conflicting claimants.

SEC. 9. The Commissioner is directed to report to Congress, at the first session after any such adjudications have been made, a list of the same, under the classes prescribed by law, with a statement of the principles upon which each case was determined.

SEC. 10. The Commissioner shall arrange his decisions into two classes; the first class to embrace all such cases of equity as may be finally confirmed by the board, and the second class to embrace all such cases as the board reject and decide to be invalid.

SEC. 11. For all lands covered by claims which are placed in the first class, patents shall issue to the claimants; and all lands embraced by claims placed in the second class, shall, *ipso facto*, revert to and become part of the public domain, to be thereafter subject to disposition as other lands of similar classification.

SEC. 12. Where patents have been already issued on entries or locations, which are confirmed by the officers who are constituted the Board of Adjudication, the Commissioner of the General Land Office, upon the canceling of the outstanding patent, is authorized to issue a new patent, on such confirmation, to the person who made the entry or location, his heirs or assigns.

SEC. 13. There shall be appointed by the President, by and with the advice and consent of the Senate, an Assistant Commissioner of the General Land Office, at a salary of three thousand dollars a year, who shall be charged with such duties in the execution of the public land laws as may be prescribed by the Commissioner of the General Land Office, or by law, and who shall act as Commissioner of the General Land Office in the absence of that officer, or during any vacancy in that office.

SEC. 14. There shall be in the General Land Office an officer called the Recorder of the General Land Office, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of twenty-four hundred dollars a year; and in the absence of said Recorder, or during any temporary vacancy in said office, the duties thereof shall be performed by a chief of division in the General Land Office, to be designated by the Commissioner thereof.

SEC. 15. All patents issuing from the General Land Office shall be issued in the name of the United States, and be signed by the President and countersigned by the Recorder of the General Land Office, and shall be recorded in that office in books to be kept for the purpose.

SEC. 16. The President is authorized to designate from time to time one or more clerks of the General Land Office, whose duty it shall be, under the direction of the President, to sign in his name and for him the patents for lands sold or granted under the authority of the United States.

SEC. 17. It shall be the duty of the Recorder of the General Land Office, in pursuance of instructions from the Commissioner, to certify and affix the seal of the office to all patents for public lands, or private

land claims, and to attend to the correct engrossing, recording, and transmission of such patents. He shall prepare alphabetical indexes of the names of patentees and of persons entitled to patents, and he shall prepare and certify such copies and exemplifications of matters on file or recorded in the General Land Office as the Commissioner may from time to time direct, or as may be authorized by law.

SEC. 18. Whenever any person applies to the General Land Office for copies of records, books or papers filed and remaining therein, in any-wise affecting titles or claims of title under the public land laws or treaty stipulations, it shall be the duty of the Commissioner of the General Land Office to furnish such copies, authenticated under the hand of the Recorder and the seal of the office for the person so applying, upon the payment by such person at the rate of fifteen cents per hundred words, and of two dollars for copies of township plats or diagrams, and the actual cost of the preparation of copies of plats larger than township plats, with an additional sum of one dollar for the Recorder's certificate of verification with the General Land Office seal; and one of the employees of the office shall be designated by the Commissioner as the Receiving Clerk, and the amounts so received shall, under the direction of the Commissioner, be paid into the Treasury; but fees shall not be demanded for such authenticated copies as may be required by the officers of any branch of the Government, nor for such unverified copies as the Commissioner in his discretion may deem proper to furnish. Copies of any documents, records, books or papers in the General Land Office, certified by the Recorder under the seal of the General Land Office, or, when the Recorder is absent, or his office is temporarily vacant, by the officer acting as Recorder for the time, shall be evidence equally with the originals.

SEC. 19. There shall be in the General Land Office a principal clerk of surveys, who shall have scientific and practical knowledge of surveying, and receive a salary of three thousand dollars a year. He shall assist the Commissioner of the General Land Office in the surveying duties herein devolved upon that officer, and so far as he may be thereto authorized by said Commissioner his orders and acts shall be deemed the orders of the Commissioner.

SEC. 20. That from and after all other officers, clerks, and employees in the General Land Office shall be as follows:

A chief clerk, who shall receive a salary of two thousand five hundred dollars a year.

A solicitor, who shall receive a salary of two thousand seven hundred dollars a year.

Nine chiefs of divisions, who shall each receive a salary of two thousand four hundred dollars a year.

One chief draughtsman, who shall receive a salary of two thousand two hundred dollars a year.

Ten assistant chiefs of division, who shall each receive a salary of two thousand dollars a year.

Fifteen clerks, at eighteen hundred dollars a year each.

Thirty-five clerks, at sixteen hundred dollars a year each.

Forty clerks, at fourteen hundred dollars a year each.

Fifty clerks, at twelve hundred dollars a year each.

Ten draughtsmen, at twelve hundred dollars a year each.

Twenty clerks, at a salary of one thousand dollars a year each.

Ten copyists, at a salary each of nine hundred dollars a year.

Two packers, at a salary each of eight hundred and forty dollars a year.

A chief messenger, at a salary of eight hundred and forty dollars a year.

Nine assistant messengers, at a salary each of seven hundred and twenty dollars a year.

Twelve laborers, at a salary each of seven hundred and twenty dollars a year.

And said other officers, clerks, and employees shall be appointed by the Secretary of the Interior, upon the nomination of the Commissioner of the General Land Office.

SEC. 21. That all offices heretofore authorized in the General Land Office, but not specifically provided for by this law, shall be, and the same are hereby, abolished.

SEC. 22. The officers, clerks, and employees of the General Land Office are prohibited from directly or indirectly purchasing, or becoming interested in the purchase of, any of the public land; and any person who violates this section shall forthwith be removed from his office.

CHAPTER II.

APPEALS.

SEC. 23. The right of appeal to the Secretary of the Interior from the decisions, orders, or acts of his subordinate officers shall be exercised by claimants only in the events and upon the terms and conditions hereinafter specified.

SEC. 24. The right of appeal to the Commissioner of the General Land Office from the decisions, orders, or acts of his subordinate officers shall be exercised by claimants only in the events and upon the terms and conditions hereinafter specified.

SEC. 25. Any decision, order, or official act of the Commissioner of the General Land Office shall be subject to the Secretary of the Interior by any party having a *bona fide* interest in the subject-matter affected thereby: *Provided*, That notice of intention to so appeal be filed in the General Land Office at Washington within ninety days after date of such decision, order, or official act: *And provided further*, That said appeal be thereafter perfected and prosecuted according to regulations to be prescribed by the Secretary of the Interior, whose duty it is hereby made to prescribe and publish such regulations. Upon failure to file such notice of intention within said ninety days, no right of appeal shall thereafter exist; and in the event of such seasonable filing, upon failure to perfect and prosecute said appeal according to the regulations previously prescribed and published by the Secretary of the Interior, said appeal shall be dismissed.

SEC. 26. The Commissioner of the General Land Office shall each week print copies of such laws, decisions, regulations, and circulars as may be necessary for the information of the public; and he shall transmit copies of the same each week to the several district land officers and the surveyors general, who shall be required to post the same conspicuously in their several offices for the convenient use and examination of the public. Said publication is hereby declared to be competent evidence of the several decisions, regulations, and circulars in all the courts and public offices of the United States without further proof

or authentication thereof; and copies thereof shall be furnished by the Commissioner to any person applying therefor upon payment of the costs with twenty-five per centum added.

SEC. 27. Any decision, order, or official act of any officer subordinate to the Commissioner of the General Land Office shall be subject to appeal to the said Commissioner by any party having a *bona fide* interest in the subject-matter affected thereby: *Provided*, That notice of intention to so appeal be filed with the said subordinate officer within thirty days after notice of such decision, order, or official act: *And provided further*, That said appeal be thereafter perfected and prosecuted according to regulations to be prescribed by the Commissioner of the General Land Office, whose duty it is hereby made to prescribe and publish such regulations. Upon failure to file such notice of intention within said thirty days after notice, no right of appeal shall thereafter exist; and upon failure, after such seasonable filing, to comply with the regulations previously prescribed and published by the Secretary of the Interior, the appeal shall be dismissed.

SEC. 28. When a party entitled to take an appeal, as hereinbefore provided, is an infant, insane person, or imprisoned, such appeal may be taken within the time heretofore prescribed, exclusive of the term of such disability.

CHAPTER III.

SURVEYS AND SURVEYORS.

SEC. 29. The Commissioner of the General Land Office shall direct and superintend the making of all surveys connected with the public land system and all matters relating thereto.

He is hereby authorized to prescribe the use, by Surveyors General and their deputies, of such instruments as he may deem best to secure economy and accuracy in the execution of the surveys, and to adopt such methods of monumentation and marking of lines on the ground as he may deem best to secure the permanency of such monuments and marks and their most ready and certain identification.

He shall cause the surveys to be made in such manner as to determine under what class the several tracts surveyed shall be placed, and the plats to be so constructed, and the field notes to be so prepared, as to exhibit the character of the lands and the facts necessary for their proper classification.

SEC. 30. It shall be the duty of the Commissioner of the General Land Office to prepare manuals of instruction for the survey of public lands, private land claims, and mineral locations, and he shall have authority to revise the same from time to time as the service may require.

SEC. 31. It shall be the duty of the Commissioner of the General Land Office to cause to be prepared annually, and to keep on file, a map of surveys for each land district, exhibiting the extent of the surveys in such district at the close of each year; and he shall furnish to the Register of each land district, annually, a copy of the map of surveys of his district; and he shall furnish to each surveyor general, annually, copies of the maps of all the land districts in the Surveyor General's surveying district. All copies of the original maps of surveys shall be made by automatic methods under the direction of the Commissioner of the General Land Office, and shall be furnished to any person applying for the same

at the cost of paper and printing with twenty-five per centum added thereto; and all moneys received for such copies of maps shall be covered in to the Treasury of the United States.

SEC. 32. The States of California, Colorado, Florida, Louisiana, Minnesota, Nevada, Nebraska and Oregon, and the Territories of Dakota, Idaho, Montana, Washington, Wyoming, Utah, Arizona and New Mexico shall respectively be surveying districts, and the President shall, by and with the advice and consent of the Senate, appoint one Surveyor General for each of said districts.

SEC. 33. The salary of each Surveyor General shall be three thousand dollars per year, and every Surveyor General hereafter appointed shall be a man having scientific and practical knowledge of surveying.

SEC. 34. There shall be but one office of Surveyor General in each State or Territory; and such office shall be located as the President, in view of the public convenience, may from time to time direct.

SEC. 35. Every Surveyor General, while in the discharge of the duties of his office, shall reside in the district for which he is appointed.

SEC. 36. The Commissioner of the General Land Office shall take all the necessary measures for the completion of the surveys in the several surveying districts for which Surveyors-General have been, or may be, appointed, at the earliest periods compatible with the purposes contemplated by law; and whenever the surveys and records of any such district are completed, the Surveyor-General thereof shall be required to deliver over to the Secretary of State of the State or Territory including such surveys, or to such other officer as may be authorized to receive them, all the field-notes, maps, records, and other papers appertaining to land titles within the same; and the office of Surveyor-General in every such district shall thereafter cease and be discontinued: *Provided*, They shall in no case be turned over to the authorities of any State or Territory until such State or Territory has provided by law for the reception and safe-keeping of the same as public records, and for the allowance of free access to the same by the authorities of the United States.

SEC. 37. In all cases where, as provided in the preceding section, the field-notes, maps, records, and other papers appertaining to land titles in any State or Territory, are turned over to the authorities of such State or Territory, the same authority, powers, and duties in relation to the survey, resurvey, or subdivision of the lands therein, and all matters and things connected therewith, as previously exercised by the Surveyor-General whose district included such State or Territory, shall be vested in and devolved upon the Commissioner of the General Land Office.

SEC. 38. Under the authority and direction of the Commissioner of the General Land Office, any deputy surveyor or other agent of the United States shall have free access to any such field-notes, maps, records, and other papers, for the purpose of taking extracts therefrom, or making copies thereof, without charge of any kind.

SEC. 39. Every Surveyor-General shall engage a sufficient number of skillful surveyors as his deputies, to whom he is authorized to administer the necessary oaths upon their appointments, and who shall under his direction survey the public lands and private land claims. He shall have authority to frame regulations for their direction, not inconsistent with law or the instructions of the General Land Office, and to remove them for negligence or misconduct in office.

Second. He shall cause to be surveyed, measured, and marked, without delay, all base and meridian lines through such points and perpet-

uated by such monuments, and such other correction parallels and meridians and other lines as may be prescribed by law or by instructions from the Commissioner of the General Land Office, in respect to the public lands within his surveying district, to which the Indian title has been or may be hereafter extinguished.

Third. He shall cause to be surveyed all private land claims within his district so far as may be necessary to complete the survey of the public lands.

Fourth. He shall transmit to the registers of the respective land-offices within his district general and particular plats of all lands surveyed by him for each land district; and he shall forward copies of such plats to the Commissioner of the General Land Office.

Fifth. He shall, so far as is compatible with the desk duties of his office, occasionally inspect the surveying operations while in progress in the field, sufficiently to satisfy himself of the fidelity of the execution of the work according to law and instructions; and the actual and necessary expenses incurred by him, while so engaged, shall be allowed; but when a Surveyor-General is engaged in such special service he shall receive only his necessary expenses in addition to his regular salary. The Commissioner of the General Land Office is also authorized to send out special inspectors to examine the character of the work being performed in the field; and the salaries and expenses of such officers shall be paid from the regular appropriation for public surveys.

Sixth. He shall in the taking of testimony authorized by law, or under the direction of the Commissioner of the General Land Office, exercise the powers and duties as to issuing subpoenas or perpetuating testimony as are granted to Registrars in sections 68, 69, and 70 of this act.

SEC. 40. The official seals heretofore authorized to be provided for the offices of the Surveyors-General of Oregon, California, and Louisiana shall continue to be used; and official seals shall in like manner be furnished for the offices of all Surveyors-General, and any copy of or extract from the plats, field notes, records, or other papers on file in those offices, respectively, when authenticated by the seal and signature of the proper Surveyor-General, shall be evidence in all cases in which the original would be evidence.

SEC. 41. Any copy of a plat of survey, or transcript from the records of the office of any Surveyor-General duly certified by him, shall be admitted as evidence in all the courts of the United States and of the Territories thereof.

SEC. 42. An accurate account shall be kept by each Surveyor-General of the cost of surveying and platting private land claims, to be reported to the General Land Office, with the map of such claim; and patents shall not issue for any such private claim until the cost of survey and platting has been paid into the Treasury by the claimant.

SEC. 43. When any person or persons who may be entitled to acquire lands under any law of the United States desires a survey of unsurveyed public lands not reserved by proper authority or otherwise appropriated, such person or persons may file an application therefor in writing with the proper Surveyor-General, who may, under such instructions as may be given him by the Commissioner of the General Land Office, and in accordance with law, survey such lands and make return thereof, as of other surveys of public lands, to the General and proper local land offices: *Provided, however*, That such persons shall deposit in a proper United States depository, to the credit of the United States, a sum sufficient to pay for such survey, together with all the expenses incident thereto.

SEC. 44. The deposit of money in a proper United States depository, under the provisions of the preceding section, shall be deemed an appropriation of the sum so deposited for the objects contemplated by that section; and the Secretary of the Treasury is authorized to cause the sums so deposited to be placed to the credit of the appropriations for the surveying service; but any excesses in such sums over and above the actual cost of the surveys, comprising all expenses incident thereto, for which they were severally deposited, shall be repaid to the depositors respectively.

SEC. 45. Where persons make deposits in accordance with the provisions of section forty-three, the amount so deposited may be used in payment for their lands situated in the township, the surveying of which is paid for out of such deposits; or the certificates issued for such deposits may be assigned by indorsement and be received in payment for any public lands of the United States which the assignee may be entitled to enter under the law. *Provided*, That when such certificates of deposit are in excess of the price of the land so entered the Commissioner of the General Land Office shall give to the purchasers excess certificates, which may be located on the same terms as the original certificates of deposit.

SEC. 46. There shall be allowed for the offices of the several Surveyors-General, for the employment of deputy surveyors, for monuments to mark surveys, for instruments, clerk-hire, office rent, fuel, books, stationery, and for other incidental expenses, such sums as may be appropriated for the purpose, by Congress, from year to year.

SEC. 47. Every deputy surveyor shall, before entering on the duties of his office, execute and deliver to the Secretary of the Interior, a bond with good and sufficient surety for the penal sum of five thousand dollars, conditioned for the faithful disbursement, according to law, of all public money placed in his hands, and for the faithful performance of the duties of his office.

SEC. 48. The Surveyors-General, in addition to the oath now authorized by law to be administered to deputies on their appointment to office, shall require each deputy, on the return of his surveys, to take and subscribe an oath that those surveys have been faithfully and correctly executed according to law and the instructions of the Surveyor-General.

SEC. 49. The deputy surveyors may each be allowed as compensation for their services, when employed either by the day, month, or year, such salary, not exceeding the rate of three thousand dollars per annum, as may be fixed by the Commissioner of the General Land Office and approved by the Secretary of the Interior.

SEC. 50. Whenever any portion of the public surveys are so required to be made as to render it expedient to let a contract for the survey thereof instead of having it done by salaried deputies, it shall be lawful for the Commissioner of the General Land Office to make such fair and reasonable contract as in his judgment may be necessary to insure the accurate and faithful execution of the work.

SEC. 51. The lines bounding townships on the east and west sides shall, in all cases, be true meridians, and those on the north and south sides shall be chords intersecting circles of latitude passing through the angles of the townships, so as to form townships six miles square as nearly as the convergence or divergence of meridians will permit; except where the line of an Indian reservation, or of tracts of land heretofore surveyed or patented, or the course of navigable rivers, may render this impracticable; and in that case this rule must be departed from no further than such particular circumstances require.

Second. The meridian passing north and south from the initial point of a system of townships shall be designated as the principal meridian, and the parallel passing east and west from the said initial point shall be designated as the principal base line. A tier of townships successively contiguous from north to south shall be designated as a range. Ranges shall be numbered east and west respectively from the principal meridian, and townships shall be numbered in the range north and south respectively from the principal base line.

Third. The corners of the townships must be marked with progressive numbers from the beginning; each distance of a mile between such corners must be also distinctly marked with marks different from those of the corners.

Fourth. The township shall be subdivided into sections, containing, as nearly as may be, six hundred and forty acres each, by running through the same, each way, parallel lines at the end of every mile; and by marking a corner on each of such lines, at the end of every mile. The sections shall be numbered respectively, beginning with the number one in the northeast section and proceeding west and east alternately through the townships with progressive numbers till the thirty-six be completed.

Fifth. Where the exterior lines of the townships which may be subdivided into sections, half sections, or other smaller subdivisions exceed, or do not extend, six miles, the excess or deficiency shall be specially noted, and added to or deducted from the western and northern ranges of sections, half sections, or other smaller subdivisions in such township, according as the error may be in running the lines from east to west, or from south to north; the sections, half sections, or other smaller subdivisions, bounded on the northern and western lines of such townships, shall be sold as containing only the quantity expressed in the returns and plats respectively, and all others as containing the complete legal quantity.

Sixth. The field-books shall be returned to the Surveyor-General, who shall cause therefrom a description of the whole lands surveyed to be made out and transmitted to the officers who may superintend the sales or disposal. He shall also cause a fair plat to be made of the townships and fractional parts of townships contained in such lands, describing the subdivisions thereof, and the marks of the corners. This plat shall be recorded in books to be kept for that purpose; and a copy thereof shall be kept open at the Surveyor-General's office for public information, and other copies shall be sent to the places of the sale, or disposal, and to the General Land Office.

SEC. 52. The boundaries and contents of the several sections, half sections, and quarter sections of the public lands shall be ascertained in conformity with the following principles:

First. All the corners marked in the surveys, returned by the Surveyor-General shall be established as the proper corners of sections, or subdivisions of sections, which they were intended to designate; and the corners of half and quarter sections, not marked on the surveys, shall be placed as nearly as possible equidistant from two corners which stand on the same line.

Second. The boundary lines actually run and marked in the surveys returned by the Surveyor-General shall be established as the proper boundary lines of the sections, or subdivisions, for which they were intended, and the length of such lines, as returned, shall be held and considered as the true length thereof. And the boundary lines which have not been actually run and marked shall be ascertained by running straight lines from the established corners to the opposite corresponding corners;

but in those portions of the fractional townships where no such opposite corresponding corners have been or can be fixed, the boundary lines shall be ascertained by running from the established corners due north and south or east and west lines, as the case may be, to the water course, Indian boundary line, or either external boundary of such fractional township.

Third. Each section, or subdivision of a section, the contents whereof have been returned by the Surveyor-General, shall be held and considered as containing the exact quantity expressed in such return; and the half sections and quarter sections, the contents whereof shall not have been thus returned, shall be held and considered as containing the one-half or the one-fourth part, respectively, of the returned contents of the section of which they may make part.

SEC. 53. In every case of the division of a quarter section, the line for the division thereof shall run north and south, and the corners and contents of half quarter sections, which may thereafter be sold, shall be ascertained in the manner and on the principles directed and prescribed by the section preceding; and fractional sections containing one hundred and sixty acres and upwards shall, in like manner, as nearly as practicable, be subdivided into half quarter sections, under such rules and regulations as may be prescribed by the Commissioner of the General Land Office, and in every case of a division of a half quarter section, the line for the division thereof shall run east and west; and the corners and contents of quarter quarter sections, which may thereafter be sold, shall be ascertained, as nearly as may be, in the manner and on the principles directed and prescribed by the section preceding; and fractional sections containing fewer or more than one hundred and sixty acres shall, in like manner, as nearly as may be practicable, be subdivided into quarter quarter sections, under such rules and regulations as may be prescribed by the Commissioner of the General Land Office.

SEC. 54. Whenever, in the opinion of the Commissioner of the General Land Office, a departure from the ordinary method of surveying land on any river, lake, bayou, or water-course would promote the public interest, he may direct the Surveyor-General in whose district such land is situated, and where the change is intended to be made, to cause the lands thus situated to be surveyed in tracts of two acres in width, fronting on any river, bayou, lake, or water-course, and running back to the depth of forty acres; which tracts of land so surveyed shall be offered for sale entire instead of in half quarter sections, and in the usual manner and on the same terms in all respects as the other public lands of the United States.

SEC. 55. Whenever, in the opinion of the Commissioner of the General Land Office, a departure from the rectangular mode of surveying and subdividing the public lands would promote the public interests, he may direct such change to be made in the mode of surveying and designating such lands as he deems proper, with reference to the existence of mountains, mineral deposits, and the advantages to be derived from timber and water privileges; but such lands shall not be surveyed into less than one hundred and sixty acres, nor subdivided into less than forty acres.

SEC. 56. Every person who in any manner, by threats or force, interrupts, hinders, or prevents the surveying of the public lands, or of any private land claim which has been or may be confirmed by the United States, by the persons authorized to survey the same in conformity with law, shall be fined not less than fifty dollars nor more than three thousand dollars, and be imprisoned not less than one nor more than three years.

SEC. 57. Whenever the President is satisfied that forcible opposition has been offered, or is likely to be offered, to any surveyor or deputy surveyor in the discharge of his duties in surveying the public lands, it may be lawful for him to order the marshal of the State or district, by himself or deputy, to attend such surveyor or deputy surveyor with sufficient force to protect such officer in the execution of his duty, and to remove force should any be offered.

SEC. 58. The public surveys shall extend over all mineral lands; and all subdividing of surveyed lands into lots less than one hundred and sixty acres may be done by county and local surveyors at the expense of claimants.

SEC. 59. Whenever monuments of surveys upon public lands are obliterated, upon due proof of that fact to the Surveyor General, the settlers upon the land may have the monuments re-established under the provisions contained in sections 43, 44, and 45 of this act.

SEC. 60. All State and Territorial boundary lines hereafter to be surveyed, and corrections of those heretofore surveyed, shall be surveyed under the direction of the Superintendent of the Coast and Geodetic Survey. And the said Superintendent shall also cause the meridians and base lines and township corners of the public land surveys to be tied into his coast and geodetic surveys as the same are extended over surveyed public lands; and he shall furnish, upon the application of the Commissioner of the General Land Office, the true location of such lines and corners, so as to give the requisite information for their restoration if destroyed or removed.

SEC. 61. That if any person or persons shall knowingly or wilfully remove, obliterate, or destroy any stake, stone, or other object placed or marked as a monument to indicate a corner of the surveys made by or under the authority of the United States, such person or persons shall, on conviction thereof, be punished by a fine not exceeding one thousand dollars, and shall moreover be liable to imprisonment not exceeding one year, or both, at the discretion of the court; and the place occupied by any such monument shall be forever reserved for the purpose of perpetuating such monument.

SEC. 62. Lands classified in this act as pasture and irrigable may be surveyed into townships, omitting the subdivisional lines, and may be described and patented as such, and this provision may be applied to lands notoriously swamp and overflowed.

CHAPTER IV.

LAND OFFICES.

Registers.

SEC. 63. There shall be appointed by the President, by and with the advice and consent of the Senate, one officer for each land district established by law, who shall be styled Register of the Land Office.

SEC. 64. Every such Register shall reside at the place where the land office in the district for which he is appointed is directed by law to be kept, and shall have a seal, to be provided by the Commissioner of the General Land Office.

SEC. 65. Every such Register shall be allowed an annual salary of three thousand dollars; and it shall be unlawful for such officer to re-

ceive for his own use or benefit, directly or indirectly, any other compensation, whether by way of fees, rewards or otherwise; and on satisfactory proof that such officer has charged or received fees or other rewards not authorized by law, he shall be forthwith removed from office.

SEC. 66. The compensation of such Registers shall commence from the time they respectively enter upon the discharge of their duties, and they shall be removable at pleasure.

SEC. 67. Said Registers shall perform all the duties connected with the sale of the public lands heretofore enjoined by law upon Registers of land offices; and shall, before entering upon the duties of their offices, give bonds each in the penal sum of ten thousand dollars, with approved security, for the faithful discharge of their trusts; and in addition thereto they shall also perform all the duties, and under similar conditions and bonds, which have heretofore been imposed upon or required by law from Receivers of public moneys; and the separate office of Receiver of public moneys is hereby abolished.

SEC. 68. Each Register of the land office is authorized, and it shall be his duty, to administer any oath required by law, or the instructions of the General Land Office, in connection with the entry or purchase of any tract of the public lands; but he shall not charge or receive, directly or indirectly, any compensation for administering such oath. The findings of the Register upon a question of fact shall in the absence of appeal be final.

SEC. 69. Each register of the land office shall have power to issue subpoenas, to require before him the attendance of witnesses upon any proceeding authorized by law, or the instructions of the General Land Office, in connection with the disposal of public lands; but he shall not have power to commit for contempt. Said subpoena shall run throughout the land district for which the officer issuing the same is the Register, and it may be served by any disinterested party duly authorized by the Register to make such service. Conclusive proof of service shall be by the affidavit of the party so authorized to serve and actually making such service. Witnesses subpoenaed pursuant to this section shall be allowed the same compensation as is allowed witnesses in the courts of the United States, to be paid in advance by the party applying for the subpoena.

SEC. 70. Whenever any person so subpoenaed before such Register of the Land Office fails to appear in obedience thereto, or whenever any person examined before said officer refuses or declines to answer, or to swear, or to sign his examination when taken, or to be otherwise guilty of contempt, the Register of the Land Office shall forthwith transmit his certificate of contumacy, setting forth all the facts, and submitting the original subpoena and proof of service thereof to the judge of the nearest United States court, who shall have power to order the person so acting to pay the costs thereby occasioned and to punish him for contempt in like manner as if such subpoena had issued originally from said court, if such person be compellable by law to appear and answer such questions or to sign such examination; or such Register of the Land Office may in like manner certify the matter to the nearest State or Territorial court upon which the legislature of said State or Territory may have conferred appropriate jurisdiction in such cases.

SEC. 71. If any person applies to any Register of the Land Office to enter any land whatever, and the said officer knowingly and falsely informs the person so applying that the same has already been entered, and refuses to permit the person so applying to enter the same, such

officer shall be liable therefor to the person so applying for five dollars for each acre of land which the person so applying offered to enter, to be recovered by action of debt, in any court of record having jurisdiction of the amount.

SEC. 72. All fees now by law exacted at the district land office in connection with the disposition of the public lands, shall be, and the same are hereby, abolished.

SEC. 73. Each Register of the Land Office shall charge and receive for making transcripts for individuals or furnishing any other record information respecting public lands or land titles in his land district such fees as are properly authorized by the tariff existing in the local courts of his district; and all moneys received from such fees shall be accounted for as other public moneys; and the deposit thereof in a proper depository of the United States shall be deemed an addition to the appropriation for incidental expenses of district land offices.

SEC. 74. The Commissioner of the General Land Office is authorized to make a reasonable allowance to each district land office for office rent, clerical services, and other necessary expenses, including the cost of depositing public moneys; said allowance to be paid out of the appropriation for incidental expenses for district land offices; but no such allowance shall be operative unless first sanctioned by the Commissioner of the General Land Office.

SEC. 75. All proofs, affidavits, or oaths authorized by law or the regulations of the General Land Office, in connection with the disposition of the public lands, may be sworn to either before the Register of the Land Office or before the judge or clerk of any court of record, or before any officer authorized to administer oaths whose official capacity shall be properly verified; and such proofs, affidavits, or oaths, when so made before any such judge, clerk, or other officer, and duly subscribed, shall have the same force and effect as if made before the district land office, and the same shall be transmitted by such judge or clerk to the proper district land office: *Provided, however,* That in contested cases proofs may be taken by deposition, with notice to the opposite party and opportunity for cross-examination, under regulations to be prescribed by the Commissioner of the General Land Office. If any witness making such proofs, affidavits, oaths or depositions, before such Register, judge, clerk, or other officer, swears falsely to any material matter contained therein, the said false swearing being willful and corrupt, he shall be deemed guilty of perjury, and shall be liable to the same pains and penalties as are prescribed by section 5392 of the Revised Statutes of the United States.

SEC. 76. Where a plat of the survey of any township or fractional township of public lands shall have been filed pursuant to law in any district land office, the Register shall forthwith cause a notice of such filing to be published for thirty days in a newspaper published in the place nearest to such township; and the lands embraced in such township shall not be subject to application, entry, or location until the expiration of such publication.

SEC. 77. Every person making application at any of the land offices of the United States, for the purchase at private sale of a tract of land, shall produce to the Register a memorandum in writing, describing the tract, which he shall enter by the proper number of the section, half section, quarter section, half-quarter section, quarter-quarter section, fraction, or lot, as the case may be, and of the township and range, subscribing his name thereto, which memorandum the Register shall file and preserve in his office.

SEC. 78. Where two or more persons apply for the purchase, at private sale, of the same tract, at the same time, the Register shall determine the preference by forthwith offering the tract to the highest bidder: *Provided*, That the same shall not be sold for less than the price fixed by law for lands in the same classification.

SEC. 79. Where two or more persons have become purchasers of a section, or fractional section, the Register of the Land Office of the district in which the lands lie shall, on application of the parties and a surrender of the original certificate, issue separate certificates, of the same date with the original, to each of the purchasers, or their assignees, in conformity with the division agreed on by them; but in no case shall the portions so purchased be divided by other than north or south and east or west lines, nor shall any certificate issue for less than eighty acres.

SEC. 80. Whenever the quantity of public land remaining unsold in any land district is reduced to a number of acres less than one hundred thousand, it shall be the duty of the Commissioner of the General Land Office to discontinue the land office of such district; and if any land in any such district remains unsold at the time of the discontinuance of a land office, the same shall be subject to sale at some one of the existing land offices most convenient to the district in which the land office has been discontinued, of which the Commissioner of the General Land Office shall give notice.

SEC. 81. The Secretary of the Interior may continue any land district in which is situated the seat of government of any one of the States, and may continue the land office in such district, notwithstanding the quantity of land unsold in such district may not amount to one hundred thousand acres, when, in his opinion, such continuance is required by public convenience, or in order to close the land system in such State.

SEC. 82. Whenever the cost of collecting the revenue from the sales of the public lands in any land district is as much as one third of the whole amount of revenue collected in such district, it may be lawful for the President, if, in his opinion, not incompatible with the public interests, to discontinue the land office in such district, and to annex the same to some other adjoining land district; but when the cost of collection in any land district exceeds the amount of revenue collected, such land district shall be discontinued and be annexed to some other adjoining land district.

SEC. 83. The President is authorized to change the location of the land offices in the several districts established by law, and to relocate the same from time to time at such point in the district as he deems expedient.

SEC. 84. Upon the recommendation of the Commissioner of the General Land Office, approved by the Secretary of the Interior, the President may order the discontinuance of any land office and the transfer of any of its business and archives to any other land office within the same State or Territory.

SEC. 85. The President is authorized to change and re-establish the boundaries of land districts whenever, in his opinion, the public interests will be subserved thereby, without authority to increase the number of land offices or land districts.

SEC. 86. In case of the division of existing land districts by the creation of new ones, or by a change of boundaries by the President, all business in such original districts shall be entertained and transacted without prejudice or change, until the offices in the new districts are duly

opened by public announcement under the direction of the Secretary of the Interior. All sales or disposals of the public lands regularly made at any land office, after such lands have been made part of another district by any act of Congress, or by any act of the President, are confirmed, provided the same are free from conflict with prior valid rights.

SEC. 87. Until changed as hereinbefore provided, the number and boundaries of the several land districts, and the location of the respective land offices, shall continue as now established.

CHAPTER V.

CLASSIFICATION OF LANDS.

SEC. 88. For all purposes of surveying and sale the public lands of the United States shall be classified as arable, irrigable, pasturage, timber, and mineral; and said lands, thus classified, shall be disposed of only under laws specifically applicable thereto.

SEC. 89. All non-mineral lands which will produce agricultural crops without irrigation, and which are not chiefly valuable for timber for commercial purposes, shall be classified as arable lands; and such lands shall be subject to entry and disposal only under the town-site, timber-culture, and homestead laws. *But this section shall not apply to lands in the States of Arkansas, Louisiana, Mississippi, Alabama, and Florida.* 42 Sept

SEC. 90. All lands, excepting mineral lands, and excepting lands chiefly valuable for timber of commercial value, which will not, without irrigation, produce some agricultural crop, except grass, for the reclamation of which sufficient water can be obtained, shall be classified as irrigable lands.

SEC. 91. All lands, excepting mineral lands, and excepting lands chiefly valuable for timber of commercial value, which will not produce crops without irrigation, and which are chiefly valuable for pasturage purposes, shall be classified as pasturage lands.

SEC. 92. All lands, excepting mineral, which are chiefly valuable for timber of commercial value, for sawed or hewed timber, shall be classified as timber lands.

SEC. 93. All lands which contain veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, coal, iron, or other valuable deposit (and which are rendered thereby more valuable for mineral than for agricultural purposes), shall be classified as mineral lands; and the same shall be subject to entry and sale only under the provisions of the mineral laws.

SEC. 94. In ascertaining the character of lands according to the classification hereinbefore prescribed, the plats and field-notes of the official surveys shall operate as *prima facie* evidence of such character; but such showing shall be subject to correction upon proof of error satisfactory to the Commissioner of the General Land Office, and according to regulations to be prescribed by him: *Provided, however*, That if unsurveyed lands are settled upon, or sought to be entered under authority of law, or if lands heretofore surveyed have not been classified according to the provisions of this chapter, the Commissioner of the General Land Office shall prescribe the mode and character of proof to establish to his satisfaction the character of such lands: *And provided further*, That the issue of a patent by the United States shall, in the absence of fraud, be conclusive as to the character of the land covered thereby.

CHAPTER VI.

HOMESTEADS.

SEC. 95. All the public lands of the United States, excepting as hereinafter provided, shall be subject to homestead entry under the conditions, restrictions and stipulations provided by law.

SEC. 96. The following classes of lands, unless otherwise specially provided for by law, shall not be subject to homestead entry; to wit:

1st. Lands to which the Indian title has not been extinguished.

2d. Lands included in any reservation by any treaty, law or proclamation of the President, for any purpose.

3d. Lands included within the limits of any incorporated town: *Provided*, That if said incorporation exceeds the maximum area which may be entered as a town site under existing laws, the restriction upon the right to homestead shall apply only to so much of said excess as shall be actually settled upon, inhabited, improved, and used for business and municipal improvements.

4th. Lands actually settled and occupied for purposes of trade and business, and not for agriculture.

5th. Lands classified as mineral or timber.

SEC. 97. Every person, male or female, who is the head of a family, or who has arrived at the age of twenty-one years and is a citizen of the United States, or who has filed his or her declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one quarter section, or a less quantity of unappropriated public lands subject to homestead, to be located in a body, in conformity to the legal subdivisions of the public lands; and every person owning or residing on land may, under the provisions of this section, enter other lands lying contiguous to his or her land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

SEC. 98. The person applying for the benefit of the preceding section shall file his or her application in writing with the Register of the proper land office, together with his or her affidavit that he or she is the head of a family, or is twenty-one years or more of age, or has performed service in the Army or Navy of the United States, and that such application is made for his or her exclusive use and benefit, and that the entry is made for the purpose of actual settlement and cultivation and not, either directly or indirectly, for the use or benefit of any other person; and upon filing such affidavit with the Register he or she shall thereupon be permitted to enter the amount of land specified, upon the payment of eighteen dollars to the United States.

SEC. 99. No certificate, however, shall be given, or patent therefor, until the expiration of three years from the date of such application; and if at the expiration of such time, or at any other time within two years thereafter, the person making such entry; or if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow, or a single woman making such entry, her heirs or devisee, in case of her death, proves by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of three years immediately succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except for church, cemetery, or school purposes, or for the right of way of railroads or high ways across such homestead, and that he, she, or they will bear true allegiance to the Government of the United States; then in such case he,

she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law.

SEC. 100. In case of marriage by a woman who may have initiated title under this act, and who was at the time of said marriage *bona fide* prosecuting the same, she shall be permitted to consummate her title in her own right upon performance of the acts and for the term required by this chapter.

SEC. 101. In case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and fee shall inure to the benefit of such infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children, for the time being, have their domicile, sell the land for the benefit of such infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States.

SEC. 102. In case of any person desirous of availing himself of the benefits of this chapter, but who, by reason of actual service in the military or naval service of the United States, is unable to do the personal preliminary acts at the district land office which the preceding sections require, and whose family, or some member thereof, or some duly authorized representative, is residing on the land which he desires to enter, and upon which a *bona fide* improvement and settlement have been made, such person may make the affidavit required by law before the officer commanding in the branch of the service in which the party is engaged, which affidavit shall be as binding in law, and with like penalties, as if taken before the Register; and upon such affidavit being filed with the Register by the wife or other representative of the party, the same shall become effective from the date of such filing.

SEC. 103. The Register of the Land Office shall note all applications under the provisions of this chapter on the tract-books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land Office, together with the proof upon which they have been founded.

SEC. 104. No lands acquired under the provisions of this chapter shall in any event become liable to the satisfaction of any debt contracted prior to the issuing of the patent therefor.

SEC. 105. If at any time after the inception of any homestead claim and prior to issue of patent thereon, it is proved, after due notice to the settler, to the satisfaction of the Register of the proper land office that the said homestead applicant has actually changed his residence or abandoned the land for more than six consecutive months, or that the said claim for any cause was originally illegal or invalid, then and in that event the land embraced in said homestead claim shall revert to the government, and any intervening claim or right to the same tract shall be deemed to have taken effect, as if the canceled homestead claim had never been made. In the event that no appeal shall be filed from the decision of the Register against such homestead claimant, said Register shall forthwith cancel said claim from his records, and shall receive any other claims to the same tracts in the order in which they may have been, or shall thereafter be, presented.

SEC. 106. No person shall be permitted to acquire title to more than one quarter-section under the provisions of this chapter, but no person shall be deemed to have had the benefit of this act except upon issue of patent.

SEC. 107. No person who has served, or may hereafter serve, for a

period not less than fourteen days in the Army or Navy of the United States, either regular or volunteer, under the laws thereof, during the existence of an actual war, domestic or foreign, shall be deprived of the benefits of this chapter on account of not having attained the age of twenty-one years.

SEC. 108. When a settlement, with a view to a homestead, has been or shall be made upon unsurveyed public lands of the United States, but otherwise subject to homestead, the right of such homestead claimant shall relate back to the date of his said settlement, but upon the express condition that the application and affidavit heretofore required shall be filed within sixty days after the date upon which such lands, after survey, shall become subject to such filing: *Provided*, That the period of his continuous residence upon unsurveyed land shall be deducted from the three years hereinbefore required after the filing of his application. Upon failure to so file within said sixty days, the right of said claimant shall take effect only from the filing of his application, as in all other cases upon surveyed lands.

SEC. 109. When settlements have been made upon unsurveyed lands, as provided for in the preceding section, and it shall prove, after survey, that two or more settlers have improvements or cultivation upon the same legal subdivision, it shall be lawful for such settlers to file a joint application for their lands at the local land office, or for either of said settlers to enter into contract with his co-settlers to convey to them their portion of said lands after a patent is issued to him, and after making said contract to file application in his own name, and proof of joint occupation by himself and others, and of such contract with them made, shall be equivalent to proof of sole occupation by himself: *Provided*, That in no case shall the amount patented under this section exceed one hundred and sixty acres.

SEC. 110. Where settlements, with a view to homestead, and followed up after survey with seasonable filing of application, have been made before the survey of the lands in the field, and are found to have been made on sections sixteen and thirty-six, those sections shall be subject to the homestead application of such settler; and if they or either of them have been or shall be reserved or pledged for the use of schools or colleges in the State or Territory in which the lands lie, other lands of like quantity are appropriated in lieu thereof; and other lands are also appropriated to compensate deficiencies for school purposes where sections sixteen and thirty-six are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever.

SEC. 111. No distinction shall be made in the construction or execution of this chapter on account of race or color.

SEC. 112. Every private soldier and officer who has served in the Army of the United States during the recent rebellion, for ninety days, and who was honorably discharged and has remained loyal to the government, including the troops mustered into the service of the United States by virtue of the third section of an act approved February 13, eighteen hundred and sixty-two, and every seaman, marine, and officer who has served in the Navy of the United States, or in the Marine Corps, during the rebellion, for ninety days, and who was honorably discharged and has remained loyal to the government, shall, on compliance with the provisions of this chapter, as hereinafter modified, be entitled to enter upon and receive a patent for a quantity of public land not exceeding one hundred and sixty acres, or one quarter section, to be taken in compact form, according to legal subdivisions including the

alternate reserved sections of public land along the line of any railroad or other public work, not otherwise reserved or appropriated, and other lands subject to entry under the homestead laws of the United States; but such homestead settler shall be allowed six months after filing his application within which to make his entry and commence his settlement and improvement.

SEC. 113. The time which the homestead settler has served in the Army, Navy, or Marine Corps shall be deducted from the time heretofore required to perfect title; or if discharged on account of wounds received or disability incurred in the line of duty, then the term of enlistment shall be deducted from the time heretofore required to perfect title, without reference to the length of time he may have served; but no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements.

SEC. 114. In case of the death of any person who would be entitled to a homestead under the provisions of section ~~110~~ ¹¹², his widow, if unmarried, or in case of her death or marriage, then his minor orphan children, by a guardian duly appointed and officially accredited at the General Land Office, shall be entitled to all the benefits enumerated in this chapter, subject to all the provisions as to settlement and improvement therein contained; but if such person died during his term of enlistment, the whole term of his enlistment shall be deducted from the time heretofore required to perfect the title.

SEC. 115. Every soldier, sailor, marine, officer, or other person coming within the provisions of section one hundred and twelve, may, as well by an agent as in person, enter upon such homestead by filing his application; but such claimant, in person or by his agent, shall, within the time prescribed, make his actual entry, commence residence and improvements on the same, and thereafter fulfill all the requirements of law.

SEC. 116. Each of the chiefs, warriors, and heads of families of the Stockbridge Munsee tribes of Indians, residing in the county of Shawano, State of Wisconsin, may, under the direction of the Secretary of the Interior, enter a homestead and become entitled to all the benefits of this chapter, free from any fee or charge; and any part of their present reservation which is abandoned for that purpose may be sold, under the direction of the Secretary of the Interior, and the proceeds applied for the benefit of such Indians as may settle on homesteads, to aid them in improving the same.

SEC. 117. The homestead secured by virtue of the preceding section shall not be subject to any tax, levy, or sale; nor shall it be sold, conveyed, mortgaged, or in any manner incumbered, except upon the decree of the district court of the United States, as provided in the following section.

SEC. 118. Whenever any of the chiefs, warriors, or heads of families of the tribes mentioned in section one hundred and sixteen, having filed with the clerk of the district court of the United States a declaration of his intention to become a citizen of the United States, and to dissolve all relations with any Indian tribe, two years previous thereto, appears in such court, and proves to the satisfaction thereof, by the testimony of two citizens, that for five years last past he has adopted the habits of civilized life; that he has maintained himself and family by his own industry; that he reads and speaks the English language; that he is well disposed to become a peaceable and orderly citizen; that he has sufficient capacity to manage his own affairs, the court may enter a decree admitting him

to all the rights of a citizen of the United States; and thenceforth he shall be no longer held or treated as a member of any Indian tribe, but shall be entitled to all the rights and privileges and be subject to all the duties and liabilities to taxation of other citizens of the United States. But nothing herein contained shall be construed to deprive such chiefs, warriors, or heads of families of annuities to which they are or may be entitled.

this chapter
SEC. 119. That any Indian, born in the United States, who is the head of a family, or who has arrived at the age of twenty-one years, and who has abandoned, or may hereafter abandon, his tribal relations, shall, on making satisfactory proof of such abandonment, under rules to be prescribed by the Secretary of the Interior, be entitled to the benefits of the act entitled "An act to secure homesteads to actual-settlers on the public domain," approved May twentieth, eighteen hundred and sixty-two, and the acts amendatory thereof, except that the provisions of the eighth section of the act shall not be held to apply to entries made under this act. *ten* ~~Provided, however,~~ That the title to lands

acquired by any Indian by virtue hereof shall not be subject to alienation or incumbrance, either by voluntary conveyance or the judgment, decree, or order of any court, and shall be and remain inalienable for a period of ~~ten~~ years from the date of the patent issued therefor: *ten* ~~Provided,~~ That any such Indian shall be entitled to his distributive share of all annuities, tribal funds, lands, and other property, the same as though he had maintained his tribal relations; and any transfer, alienation, or incumbrance of any interest he may hold or claim by reason of his former tribal relations shall be void.

SEC. 120. That in all cases in which Indians have heretofore entered public land under the homestead law, and have proceeded in accordance with the regulations prescribed by the Commissioner of the General Land Office, or in which they may hereafter be allowed to so enter under said regulations prior to the promulgation of regulations to be established by the Secretary of the Interior under the preceding section of this act, and in which the conditions prescribed by law have been or may be complied with, the entries so allowed are hereby confirmed, and patents shall be issued thereon, subject, however, to the restrictions and limitations contained in the next preceding section of this act in regard to alienation and incumbrance.

SEC. 121. That from and after the passage of this act the alternate sections reserved to the United States within the limits of any grant of public lands to any railroad company, or to any military road company, or to any State in aid of any railroad or military road, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler, and any person who has, under existing laws, taken a homestead on any section reserved to the United States within the limits of any railroad or military road land grant, and who by existing laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or, if such persons so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made; and the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the three years residence and cultivation required by law: *ten* ~~Provided,~~ That in no case shall

patent issue upon an additional or new homestead entry under this act until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year: *ten* ~~And provided further,~~ That except as provided in this section all unapproved additional homestead rights shall be and are hereby repealed.

SEC. 122. Hereafter homestead applicants shall not be required to publish notice of their intention to make final proofs; but in cases of contest, parties interested shall be cited according to regulations to be prescribed by the Commissioner of the General Land Office.

SEC. 123. Whenever twenty or more persons severally qualified under the provisions of this act shall file in the proper district land office an application to form a homestead colony, together with a map of their proposed homestead colony, the register of said district land office shall receive and admit their separate filings for one hundred and sixty acres of land each, as in other homestead filings upon the arable lands of the United States. *Chapter*

Said homestead colonists shall be permitted to reside in a village by them to be formed, and to be shown upon the map, directed to be filed in the district land office, to be located as near as may be in the center of said colony; and the homestead colonists, upon whose tract the said village shall fall, are hereby authorized and permitted to give a deed for village purposes and occupation to the authorities of said village: *ten* ~~Provided,~~ That said deed shall not run as against the United States until after title has passed from the United States for the tract upon which the village is situated.

Continuous residence in said village, while cultivating and using for agricultural purposes their separate tracts, and said cultivation and use by said colonists, separately, for their own use and benefit, of the land embraced in their said entries, while residing in the said village, shall be considered equivalent to actual residence on their said lands.

When said colonists shall settle upon unsurveyed lands, they shall file the map and application before mentioned in the proper district land office, conforming, as nearly as can be ascertained, their separate claims to the size of the present legal subdivisions of the public lands; and they shall have possessory title to their separate lands, until the date of the return of the plat of the surveys of said lands to the district land office, after which time they shall proceed to acquire title in the manner set out and directed in this section for acquiring title to colony homesteads on surveyed lands. Joint entry of tracts in case of joint occupancy hereunder shall be permitted as in other homestead cases.

The provisions of this act, relating to homesteads on arable lands, shall, where the same are applicable, apply to entries under this section. The Commissioner of the General Land Office is hereby required to make all proper rules and regulations for carrying into effect the above provisions of law.

SEC. 124. Where there is joint and several occupancy, at the date of the passage of this act, by duly qualified homestead settlers of the public lands, in quantities less than the present smallest legal subdivision of the public lands, it shall be lawful for one of said settlers and occupants to enter in trust under the homestead law the entire tract at the proper district land office, and to apportion to each of the several settlers or occupants their specific portions, and to make title to them after he or she shall have first obtained title to said tract under the homestead act from the United States.

SEC. 125. Any bona fide settler under the homestead laws of the

United States, who has filed the proper application to enter public lands in any district land office, and who has been subsequently appointed a Register of the Land Office, may perfect the title to the land by making the payments required by law, and furnishing proof of residence and cultivation up to the date of his appointment, to the satisfaction of the Commissioner of the General Land Office.

SEC. 126. The pre-emption law shall be, and is hereby, repealed; but nothing herein contained shall be so construed as to impair or interfere in any manner with existing pre-emption rights.

CHAPTER VII.

TIMBER CULTURE.

SEC. 127. Any person who has made or consummated a homestead entry under the laws of the United States, and who still resides upon said tract, shall be permitted to enter upon any vacant public lands contiguous to his or her tract eighty acres, or less in legal subdivisions for timber culture, on which he or she shall plant, protect, and keep in a healthy growing condition for eight years ten acres of timber. If he or she shall, at the expiration of said term, be entitled to a patent for the whole of said tract, or of such legal subdivision as the case may be, on making proof of such fact by not less than two credible witnesses and of full compliance with the further conditions provided in the following section.

SEC. 128. The person applying for the benefits of this act shall, upon application to the Register of the land district in which he or she is about to make such entry, make affidavit as follows, to wit: I, ———, having filed my application, No. ———, for an entry under the provisions of the timber culture act, do solemnly swear (or affirm) that I have heretofore filed an application for or entered a homestead, No. ———, under the laws of the United States, at the district land office at ———; that I now reside upon the land embraced in the said homestead filing; that the section of land specified in my said application is composed exclusively of prairie lands, or other lands devoid of timber; that this filing and entry is made for the cultivation of timber, and for my own exclusive use and benefit; that I have made the said application in good faith, and not for the purpose of speculation, or directly or indirectly for the use or benefit of any other person or persons whomsoever; that I intend to hold and cultivate the land and to fully comply with the provisions of this said act; and that I have not heretofore made an entry under the timber culture act. And upon filing said affidavit with said register, and on payment of ten dollars, he or she shall thereupon be permitted to enter the quantity of land specified; and the party making an entry under the provisions of this act shall be required to break or plow five acres covered thereby the first year, five acres the second year, and to cultivate for crop or otherwise the five acres broken or plowed the first year; the third year he or she shall be required to cultivate for crop or otherwise the five acres broken the second year, and to plant in timber, seeds, or cuttings the five acres first broken or plowed, and to cultivate and put in crop or otherwise the remaining five acres, and the fourth year to plant in timber, seeds, or cuttings the remaining five acres: *Provided*, That in case such trees, seeds, or cuttings

shall be destroyed by grasshoppers, or by extreme and unusual drought, or any year or term of years, the time for planting such trees, seeds, or cuttings shall be extended one year for every such year that they are so destroyed: *Provided, further*, That the person making such entry shall, before he or she shall be entitled to such extension of time, file with the register of the proper land office an affidavit, corroborated by two witnesses, setting forth the destruction of such trees, and that, in consequence of such destruction, he or she is compelled to ask an extension of time, in accordance with the provisions of this act: *And provided further*, That no final certificate shall be given, or patent issued, for the land so entered, until the expiration of eight years from the date of such entry; and if, at the expiration of such time, or at any time within five years thereafter, the person making such entry, or, if he or she be dead, his or her heirs or legal representatives, shall prove by two credible witnesses that he or she or they have planted, and, for not less than eight years, have cultivated and protected such quantity and character of trees as aforesaid; that not less than twenty-seven hundred trees were planted on each acre, and that at the time of making such proof there shall be then growing at least six hundred and seventy-five living and thrifty trees to each acre, they shall receive a patent for such tract of land.

SEC. 129. If at any time after the filing of said affidavit, and prior to the issuing of the patent for said land, the claimant shall fail to comply with any of the requirements of this chapter, then and in that event such land shall be subject to entry under the homestead laws, or by some other person under the provisions of this chapter: *Provided*, That the party making claim to said land, either as a homestead settler or under this chapter, shall give at the time of filing his application such notice to the original claimant as shall be prescribed by the rules established by the Commissioner of the General Land Office; and the rights of the parties shall be determined as in other contested cases.

SEC. 130. That no land acquired under the provisions of this act shall in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor.

SEC. 131. That the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect.

SEC. 132. And the fifth section of the act entitled "An act in addition to an act to punish crimes against the United States, and for other purposes," approved March 3, eighteen hundred and fifty-seven, shall extend to all oaths, affirmations, and affidavits required or authorized by this act.

SEC. 133. The parties who have already made entries under the acts approved March third, eighteen hundred and seventy-three, and March thirteenth, eighteen hundred and seventy-four, and June fourteenth, eighteen hundred and seventy-eight, shall be permitted to complete the same upon full compliance with the provisions of said acts.

CHAPTER VIII.

TOWN SITES.

SEC. 134. The President is authorized to reserve from the public lands, whether surveyed or unsurveyed, town-sites on the shores of har-

boats, at the junction of rivers, important portages, or any natural or prospective centers of population.

SEC. 135. When, in the opinion of the President, the public interests require it, it shall be the duty of the Commissioner of the General Land Office to cause any of such reservations, or part thereof, to be surveyed into urban or suburban lots of suitable size, and to fix, by appraisement of disinterested persons, their cash value, and to offer the same for sale at public entry to the highest bidder, and thence afterward to be held subject to sale at private entry according to such regulations as the Commissioner of the General Land Office may prescribe; but no lot shall be disposed of at public sale or private entry for less than the appraised value thereof. And all such sales shall be conducted by the Register of the land office in the district in which the reservation may be situated, in accordance with the instructions of the Commissioner of the General Land Office.

SEC. 136. Whenever any portion of the public lands have been or may be settled upon and occupied as a town-site, not subject to entry under the agricultural laws, it is lawful, in case such town be incorporated, for the corporate authorities thereof, and, if not incorporated, for the judge of the county court for the county in which such town is situated, to enter at the proper land office, and at the minimum price, the land so settled and occupied in trust for the several use and benefit of the occupants thereof, according to their respective interests; the execution of which trust, as to the disposal of the lots in such town, and the proceeds of the sales thereof, to be conducted under such regulations as may be prescribed by the legislative authority of the State or Territory in which the same may be situated. Any act of the trustees not made in conformity to the regulations in this section shall be void.

SEC. 137. The entry of the land provided for in the preceding section shall be made, or a declaratory statement of the purpose of the inhabitants to enter it as a town-site shall be filed, with the Register of the proper land office, and the entry or declaratory statement shall include only such land as is actually occupied by the town, and the title to which is in the United States; but in any Territory in which a land office may not have been established, such declaratory statements may be filed with the surveyor general of the surveying district in which the lands are situated, who shall transmit the same to the General Land Office.

SEC. 138. It shall be lawful for any town which has made, or may hereafter make, entry of less than the maximum quantity of land named in section 143, to make such additional entry or entries, of contiguous tracts, which may be occupied for town purposes, as, when added to the entry or entries theretofore made, will not exceed twenty-five hundred and sixty acres: *Provided*, That such additional entry shall not, together with all prior entries, be in excess of the area to which the town may be entitled at date of the additional entry by virtue of its population, as prescribed in said section.

SEC. 139. No title shall be acquired, under the foregoing provisions of this chapter, to any mine of gold, silver, cinnabar, or copper, or to any valid mining claim or possession held under existing laws.

SEC. 140. The provisions of this chapter shall not apply to military or other reservations heretofore made by the United States, nor to reservations for light-houses, custom-houses, mints, or other such public purposes as the interests of the United States may require, whether held under reservations through the Land Office by title derived from the Crown of Spain or otherwise.

SEC. 141. In the patent to be issued by the United States for any town-site on mineral lands, under this act, there shall be recognized the underground and surface rights, recognized by local authority or law, of persons owning or possessing mining veins, and the surface rights of the owners or possessors of town lots, together with the necessary use thereof; but nothing contained in this section shall be so construed as to recognize any color of title in possessors for mining purposes, as against the United States.

There shall be inserted in mining patents for claims within the exterior limits of a town, under this act, the following clause: "Excepting and excluding from these presents all town property rights upon the surface, and there are hereby expressly excepted and excluded from the same, all houses, buildings, and structures, lots, blocks, streets, alleys, or other municipal improvements on the surface of the above premises, not belonging to the grantees herein, and all rights necessary or proper to the occupation, possession, and enjoyment of the same."

In the patent to be issued for a town site under this act there shall be inserted the following clause: "*Provided*, That no title shall be hereby acquired to any mine of gold, silver, cinnabar or copper, or to any valid mining claim or possession held under existing laws: *And provided, further*, That the grant hereby made is held and declared to be subject to all the conditions and restrictions contained in section — of the Revised Statutes of the United States, so far as the same are applicable thereto."

SEC. 142. The several counties and parishes of each State and Territory, where there are public lands, are authorized to enter, at the minimum price for which public lands of the United States are sold, one-quarter section of vacant land in each of the counties or parishes, in trust for such counties or parishes respectively, for the establishment of seats of justice therein; but the proceeds of the sale of each of such quarter sections shall be appropriated for the purpose of erecting public buildings in the county or parish for which it is located, after deducting therefrom the amount originally paid for the same; and the seat of justice for such counties or parishes, respectively, shall be fixed previously to a sale of the adjoining lands within the county or parish for which the same is located.

SEC. 143. If upon surveyed lands, the entry shall in its exterior limit be made in conformity to the legal subdivisions of the public lands authorized by law; and where the inhabitants are in number one hundred, and less than two hundred, shall embrace not exceeding three hundred and twenty acres; and in cases where the inhabitants of such town are more than two hundred, and less than one thousand, shall embrace not exceeding six hundred and forty acres; and where the number of inhabitants is one thousand and over one thousand, shall embrace not exceeding twelve hundred and eighty acres; but for each additional one thousand inhabitants, not exceeding five thousand in all, a further grant of three hundred and twenty acres shall be allowed.

SEC. 144. The words "not exceeding five thousand in all," in the preceding section, shall not apply to Salt Lake City, in the Territory of Utah; but such section shall be so construed in its application to that city that lands may be entered for the full number of inhabitants contained therein not exceeding fifteen thousand; and as that city covers school section number thirty-six, in township number one north, of range number one west, the same may be embraced in such entry, and indemnity shall be given therefor when a grant is made by Con-

gress of sections sixteen and thirty-six, in the Territory of Utah, for school purposes.

SEC. 143. The existence or incorporation of any town upon the public lands of the United States shall not be held to exclude from homestead entry a greater quantity than twenty-five hundred and sixty acres of land, or the maximum area which may be entered as a town-site under existing laws, unless the entire tract claimed or incorporated in such town-site shall, including and in excess of the area above specified, be actually settled upon, inhabited, improved, and used for business and municipal purposes.

SEC. 146. Whenever the corporate limits of any town upon the public domain are shown or alleged to include lands in excess of the maximum area specified in section one hundred and forty-three of this act, the Commissioner of the General Land Office may require the authorities of such town (and it shall be lawful for them) to elect what portion of said lands in compact form and embracing the actual site of the municipal occupation and improvement shall be withheld from homestead entry; and thereafter the residue of such lands shall be open to disposal under the homestead laws. And upon default of said town authorities to make such selections within sixty days after notification by the Commissioner, he may direct testin only respecting the actual location and extent of said improvements to be taken by the Register of the district in which such town may be situated; and upon receipt of the same he may determine and set off the proper site according to section one hundred and forty-three of this act, and declare the remaining lands open to settlement and entry under the homestead laws; and it shall be the duty of the Secretary of each of the Territories of the United States to furnish the Surveyor General of the Territory, for the use of the United States, a copy duly certified of every act of the Legislature of the Territory incorporating any city or town, the same to be forwarded by such Secretary to the Surveyor General within one month from date of its approval.

CHAPTER IX.

IRRIGABLE LANDS.

SEC. 147. It shall be lawful for any citizen of the United States, or any person of requisite age, who may be entitled to become a citizen, and who has filed his declaration to become such, and upon payment of twenty-five cents per acre, to file a declaration, under oath, with the Register of the land district in which any irrigable land is situated, that he intends to enter and reclaim a tract or tracts of irrigable land by conducting water upon the same within the period of three years thereafter. Said declaration shall describe particularly said land, if surveyed, and, if unsurveyed, shall describe the same as nearly as possible without a survey, and each tract of land shall be in a compact form, except that where the same is within a railroad grant it shall be deemed compact if in a form which, including the sections so granted, would be compact. At the time of filing the declaration, the party shall also file a map of said land, which shall exhibit a plan showing the mode of contemplated irrigation, and which plan shall be sufficient to thoroughly irrigate all of said land; and persons taking up separate tracts of irrigable land shall have the right to associate together in the construction of canals and ditches for irrigating all of said tracts, and may file a joint map or maps, showing their plan of intended improvements.

SEC. 148. No land shall be patented to any person under this chapter unless he or his assigns shall have expended in the necessary reclamation thereof at least two dollars per acre of the whole tract reclaimed and patented. The determination of what may be considered irrigable land shall be subject, under the limitations of this act, to the provisions of section ninety of this act and the regulations of the Commissioner of the General Land Office.

SEC. 149. At any time within the period of three years after filing the declaration, affidavit, maps and plans named herein, upon making satisfactory proof to the Register of the reclamation of said land to the extent and cost, and in the manner aforesaid, and substantially in accordance with the plans herein provided for, and upon the payment to the Register of the additional sum of one dollar per acre for said land, a patent shall issue therefor.

SEC. 150. All locations of irrigable or desert lands heretofore made under an act entitled "An act to provide for the sale of desert lands in certain States and Territories," approved March third, one thousand eight hundred and seventy-seven, may be re-entered under this act by the persons making the same, or by their successors in interest or assigns, upon their filing with the Register of the land district the declarations, affidavits, maps and plans required under this chapter; and such persons shall have three years from the passage of this act to complete the reclamation of such lands; and the payment of twenty-five cents per acre originally made by them shall be considered as the first payment required under this act.

SEC. 151. The right to the use of water by the person conducting the same on or to any tract of irrigable land shall depend on *bona fide* prior appropriation; and such right shall not exceed the amount of water actually appropriated and necessarily used for the purpose of irrigation and reclamation; and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers, and other sources of water supply upon the public lands, and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining, and manufacturing purposes, subject to existing rights.

CHAPTER X.

PASTURAGE LANDS.

SEC. 152. From and after the 1st day of January, A. D. 1881, all surveyed public lands of the United States, classified as pasturage lands under this act, excepting such of those lands as are legally occupied under the laws of the United States, shall be subject to purchase at private sale, upon application by any person at the respective district land offices of the United States, for the sum of \$1.25 per acre.

On and after January 1, A. D. 1886, the surveyed lands not legally occupied under laws of the United States, and classified as above, and remaining unsold, shall be sold as above directed at \$1 per acre.

On and after January 1, A. D. 1890, any lands classified as above set out, and not legally occupied under the laws of the United States, remaining unsold, shall be sold for seventy-five cents per acre. After the year A. D. 1890, the price of said lands shall be decreased twelve and one-half cents per acre each three years they shall remain unsold, until they shall reach twelve and one-half cents per acre, at which price

they shall be sold, but for no less sum: *Provided*, That as to lands unsurveyed on the first day of January, A. D. 1881, said land shall be subject to private sale at one dollar and a quarter per acre for five years after survey, and thereafter they shall decrease in price upon a graduation of time and value equivalent to that herein provided for for lands now surveyed.

Provided, however, That nothing in this section shall in any manner prohibit or interfere with settlement on said pasture lands, or their withdrawal from private sale by settlement under the homestead, pasturage homestead, or irrigation laws.

The Commissioner of the General Land Office shall make all needful rules and regulations for carrying into effect the above provisions of law.

SEC. 153. Any person qualified under the provisions of this act to make entry of a homestead on the arable lands of the United States may, upon application at the proper district land office, be permitted to file a homestead upon the pasture lands of the United States: *Provided*, That no one separate entry shall embrace more than four sections or two thousand five hundred and sixty acres of such pasture lands, and the same shall lie in a compact body. *And provided further*, That the applicant shall pay to the United States, at the time of making his application, one hundred dollars.

SEC. 154. That the provisions of this act relating to homesteads upon the arable lands of the United States, and the provisions of this act authorizing the formation of homestead colonies, through separate individual entries upon the surveyed and unsurveyed arable lands of the United States, shall, as far as they may be applicable as to term, location, entry, character of occupancy, settlement and village residence, apply to entries under this section: *Provided*, That such contiguous village lots may each contain not more than twenty acres of land, and may be selected from either irrigable or pasture lands. *And provided further*, That use for grazing purposes of the lands embraced in a pasture homestead entry, with residence upon the tract, or in a colony village, shall be in lieu of actual cultivation and use for agricultural purposes.

CHAPTER XI.

TIMBER LANDS.

SEC. 155. All timber lands, excepting those bearing mineral, which are chiefly valuable for timber of commercial value, as sawed or hewed timber, are hereby withdrawn from sale or other disposal.

SEC. 156. All timber exceeding eight inches in diameter growing or being upon the even-numbered sections of public land, which are chiefly valuable for timber of commercial value, as sawed or hewed timber, may be sold for cash in lots of not less than forty acres nor greater than six hundred and forty acres, or one section containing more or less than six hundred and forty acres: *Provided*, That this section shall not apply to lands reserved by competent authority. All moneys derived from the sale of timber shall be accounted for and covered into the Treasury in the same manner as moneys received from the sale of public lands.

SEC. 157. In the sale of timber from the public lands there shall be three grades, with a fixed price for each grade. The price of the first grade shall be _____ dollars per acre; the price of the second grade shall be _____ dollars per acre; and the price of the third grade

shall be _____ dollars per acre. The grading of the timber shall be done by the deputy surveyors at the time of the surveys of said lands, and the kind and character of timber on each section so surveyed shall be noted in the field notes and marked upon the township plats. In case of contest said grading shall become a matter of proof, as in other cases provided in this act in matters relating to the character of the public lands. Timber upon lands surveyed before the passage of this act shall be classified and graded under the direction of the Commissioner of the General Land Office.

SEC. 158. The Commissioner of the General Land Office is hereby authorized to appoint such officers as Congress may from time to time appropriate for, which officers shall, under the direction of the said Commissioner, act as agents for the preservation of the timber on the public lands and for the prevention and suppression of depredations thereon, and shall perform such other duties as may be assigned them in connection with the public land service.

SEC. 159. Every person purchasing timber under the provisions of this chapter shall remove the timber from the land within five years from the date of notice to be given by the Commissioner of the General Land Office, and thereafter he shall have no right to, or claim upon, any timber remaining upon said lands, nor upon the purchase-money paid therefor; and any sale made under this chapter shall be subject to this express condition.

SEC. 160. All timber standing upon the public lands shall, after purchase as herein provided, become subject to taxation in accordance with the laws of the States or Territories in which the same may be situated.

SEC. 161. All citizens of the United States and other persons *bona fide* residents thereof, shall be, and are hereby, authorized and permitted to fell and remove, or cause to be felled and removed, for building, agricultural, mining, and other purposes, but not for purposes of sale, commerce or export, any timber or other trees growing or being on the public lands not subject to entry under this act, and whether upon surveyed or unsurveyed lands; but subject to such rules and regulations as the Secretary of the Interior may prescribe for the protection of the timber and undergrowth growing upon such lands.

SEC. 162. Any person who shall cut, or cause, or procure to be cut, or aid, or assist, or be employed in cutting, or shall wantonly destroy, or cause, or procure to be wantonly destroyed, or aid, or assist, or be employed in wantonly destroying any timber, standing, growing, or being on any lands of the United States, including Indian reservations, excepting upon lands reserved for military and naval purposes, while held in such reservation, and not subject to the control of the Department of the Interior, shall pay a fine of not less than triple the value of the trees or timber so cut, destroyed, or removed, and shall be imprisoned not exceeding twelve months.

SEC. 163. If the master, owner, or consignee, of any vessel shall knowingly take on board any timber cut on the public lands of the United States without authority of law, the vessel on board of which the same shall be taken or seized, shall, with the tackle, apparel, and furniture, be wholly forfeited to the United States, and the captain or master of such vessel wherein the same was exported to any foreign country against the provisions of this section, shall forfeit and pay to the United States a sum not exceeding twice the value of the timber so transported on board his vessel.

SEC. 164. It shall be the duty of all collectors of customs within the States of Florida, Alabama, Mississippi, Louisiana, California, and

Oregon, and in Washington Territory, before allowing a clearance to any vessel laden in whole or in part with lumber or timber, to ascertain satisfactorily that such timber was cut from private lands, or cut from public ones by the consent of the Interior Department. And it is also made the duty of all officers of the customs, and of the land officers within those States, and within Washington Territory, to promptly inform the Secretary of the Interior of the acts and offenses of all persons known to them against the provisions of this law.

SEC. 165. All penalties and forfeitures incurred under the provisions of sections one hundred and sixty-three and one hundred and sixty-four of this act shall be sued for, recovered, and accounted for, under the directions of the Secretary of the Interior, and the Secretary is authorized to mitigate in whole or in part on such terms and conditions as he deems proper, by an order in writing, any fine, penalty, or forfeiture so incurred; and all actions or causes of actions, either civil or criminal, for depredations committed by cutting or removing timber from the public lands, prior to the passage of this act are hereby condoned and quashed: *Provided*, That in all cases where suits have been commenced, the dismissal of the cases shall be at the cost of defendants.

SEC. 166. Nothing contained in the four preceding sections shall be construed as repealing sections 2460, 2461, 2462, 2463, and 4751 of the Revised Statutes, but the same shall be of general application.

CHAPTER XII.

MINERAL LANDS.

SEC. 167. The public lands of the United States, classified by law as mineral lands, shall be reserved from sale or disposal, except as expressly directed by law.

SEC. 168. All valuable mineral deposits in public lands of the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration, and surface and subterranean prospecting. The lands in which such mineral deposits are found shall be open to occupation and purchase by citizens of the United States, and those who have declared their intention to become such, upon the terms and conditions hereinafter prescribed.

SEC. 169. Any mining claims located after the day of , 1880, shall be bounded as to surface by straight lines, and all right to minerals contained therein shall be confined within vertical planes passing downward through said straight boundary lines.

SEC. 170. A mining claim located after day of may equal but shall not exceed a square of feet on the side, and the same may be in any shape, so that neither length nor breadth shall exceed feet, nor the aggregate area exceed that of the square hereinbefore first described.

SEC. 171. Proof of citizenship under this chapter may consist, in the case of an individual, of his own affidavit thereof; in the case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge or upon information and belief; and in the case of a corporation organized under the laws of the United States, or of any State or Territory thereof, by the filing of a certified copy of their charter or certificate of incorporation.

SEC. 172. All future occupation, location or purchase of public min-

eral lands shall be governed by laws of Congress, to the exclusion of all local customs and regulations and State or Territorial laws.

SEC. 173. No title, or valid claim to title, to public mineral lands shall be acquired as against the United States or third parties, except upon compliance with the following conditions and requirements.

SEC. 174. Any qualified person may acquire such claim or title:

First. By marking the position of his claim by monuments upon the ground and by posting notices thereon. Said monuments shall consist either of firmly set wooden stakes, not less than six inches square, and not less than three feet above ground; or of well set piles of stones not less than four feet square at the base and not less than three feet high, posted at each exterior angle of the claim. The northeasternmost monument shall be the initial point for description and survey, and shall be conspicuously marked "O." Said notices shall, within five days from the establishment of the monuments, be posted conspicuously upon each of said monuments, and, in addition thereto, at least three of said notices shall be posted upon conspicuous places within the interior of said claim. Said notices shall be dated with the establishment of said monuments, shall describe the exterior boundaries of the claim by specific reference to the monuments established on the ground, and shall note the approximate courses and distances passing southerly, westwardly, northerly, and eastwardly from the initial monument around the entire boundary closing upon said initial monument. A specific form of notice shall be prescribed by the Commissioner of the General Land Office to embody the foregoing requirements, and be so explicit as to operate as notice to third parties.

Second. By the discovery within said claim of a lode, placer, or other valuable mineral deposit, either before the posting of said notice or within ninety days thereafter.

Third. Within ninety days from the posting of said notice, the locator shall file with the United States Surveyor General for the surveying district in which the claim lies a copy of said posted notices, together with proof of mineral discovery and an application for survey of his claim, and evidence that he has deposited to the credit of the United States in a proper United States depository the sum of fifty dollars, which deposit shall be deemed an addition to the appropriation for the survey of the public lands. Said proof shall consist of affidavits of the locator and of two disinterested persons, and the fact of said mineral discovery shall be subject to such further proof or verification as the Commissioner of the General Land Office may deem necessary. Said application shall be in writing, signed by the locator.

Fourth. Within one year from the approval by the United States Surveyor General of said survey, the locator, his assigns, or his duly authorized agent, who has or have complied with the terms of this chapter, shall file in the proper land office an application for patent under oath, showing such compliance, together with a copy of the plat and field notes of the claim, duly certified by the United States Surveyor General, and proof that \$500 worth of labor has been expended or of improvements made upon the claim by the claimant or his grantors. Said proof shall consist of the affidavits of the claimant or his duly authorized agent, corroborated by the affidavits of two disinterested witnesses, which shall set forth the facts in sufficient detail to satisfy the Commissioner of the General Land Office that the said mineral claim has been worked in good faith. Upon the filing of the application and plat and making the above-required proof, and upon payment to the proper officers of

per acre in full for the acreage of his claim, the claimant shall be entitled to a patent for his said claim.

SEC. 175. The right of assignment of a mineral claim after approval of survey by the United States Surveyor General is hereby expressly authorized, but such assignment shall confer no right as against the United States, and shall simply substitute an assignee in place of his grantors. No assignment prior to survey shall be recognized.

SEC. 176. Failure by a locator to make application for survey and satisfactorily prove the mineral discovery within ninety days after the posting of the notices shall subject his claim to location by any other qualified party.

SEC. 177. Failure of the claimant to make proof of work and payment within the time hereinbefore prescribed shall work a complete forfeiture of the claim, and the survey theretofore made shall be canceled.

SEC. 178. On or before _____, 1880, the Commissioner of the General Land Office shall divide the territory west of the 100th meridian into mineral districts, so that each Surveyor General's district shall be made up of one or more mineral districts, having due regard to the number of surveys of mineral claims and applications for the same.

SEC. 179. The Surveyor General shall—

First. Cause to be established in all mining neighborhoods or districts permanent neighborhood or district initial mineral monuments, which shall serve as initial reference points for mining claim surveys, and which shall be connected by trigonometrical measurement with mineral base lines, to be established and measured by such methods as may be prescribed by law.

Second. He shall cause to be determined by trigonometrical measurement the exact course and distance between said initial district mineral monuments and the hereinbefore described initial claim monuments.

Third. He shall receive, place on file, and record, in a book kept in his office for that purpose, every application for the survey of a mining claim, together with the original location notice of the claimant.

Fourth. When two or more locators make application to a Surveyor General for the survey of the same tract, either in whole or in part, and neither survey has heretofore been approved, the right of approval shall be in him who made the first location on the ground; and such priority of location shall, in the first instance, be determined by the officer in the field, and any party aggrieved thereby may, within ninety days after such determination, appeal to the United States Surveyor General, by whom the question may be reviewed, upon notice to the appellee, and after reasonable opportunity for the introduction of proof by both parties.

Fifth. He shall cause some duly appointed deputy mineral surveyor, chosen by the applicant for survey, to execute a survey of each claim for which an application is filed in his office, and to return the plat and field notes of said survey to his office.

Sixth. He shall keep in his office connected maps of all mining neighborhoods in his district, upon which shall be shown the positions of all mineral monuments and their relations to leading topographical features in their immediate vicinity, and the positions of all surveyed claims which do not overlap previously surveyed claims, numbering said surveys consecutively in the order of the return of plats and field notes by deputy mineral surveyors. He shall ascertain in whatever mode he shall deem most practicable the location of all mining claims heretofore surveyed or patented and shall delineate the same upon the connected district maps as accurately as possible. On the return of the said plats

and field notes by the deputy mineral surveyor, the Surveyor General, having caused the trigonometrical measurement as hereinbefore provided to be made between the nearest initial district mineral monument and the initial monument of the mining claim, shall apply said mineral claim survey to his district map and, provided said claim or any part thereof does not overlap any previously applied plat and is otherwise correct, he shall approve said survey and within ten days thereafter shall delineate it upon said district map and make two full copies of said plat and field notes, forwarding one to the Commissioner of the General Land Office and the other to the Register of the proper land office. Said district map shall be open to examination by the public. Copies of all approved surveys shall be furnished to interested parties on payment of costs as fixed by the Commissioner of the General Land Office. If the said Surveyor General applies any duly returned plat to said district maps, and said plat is found to conflict with or overlap a previously approved survey said Surveyor General shall withhold approval thereof, and no legal effect shall attach to the same by reason of its having been made in the field nor by reason of any approval thereof if the same should inadvertently or accidentally be approved in conflict with prior approval.

SEC. 180. It shall be the duty of each Surveyor General within whose surveying district any mineral surveys have been or shall be made, and within thirty days after expiration of the ten days above mentioned, to furnish, free of cost, to each district land office and to the recorder of each county certified copies of such of said connecting maps as may embrace lands within the limits of said land district or within said counties, respectively; and copies shall also be furnished to deputy mineral surveyors at the discretion of the said Surveyor General.

SEC. 181. Within thirty days after approval of any subsequent survey it shall be the duty of each Surveyor General to furnish to each district land office and to the several county recorders a certified copy of such of said subsequent surveys as may fall within said land district and counties, respectively, and the district land offices shall forthwith cause said survey to be immediately delineated in its proper position upon the connecting maps theretofore furnished them.

SEC. 182. Each of said connecting maps shall show in a marginal table the date of approval of the several surveys delineated thereon, and said marginal table shall be regularly continued as subsequent surveys are added to said connecting maps. Each copy hereinbefore provided for shall also exhibit the exact date of such approval or approvals.

SEC. 183. In the event that proof of *bona fide* development and payment of purchase money shall not be made or tendered within the year heretofore prescribed, it shall be the duty of the Register of the proper land office to notify the Commissioner of the General Land Office, who shall forthwith cause said survey to be cancelled in all the offices under his control, and shall cause notice thereof to be sent to the recorder of the county wherein the cancelled survey was situate. After said cancellation no right or claim of any character shall survive in any party by reason of said survey, and the land embraced therein shall be subject to the claim of any intervening or subsequent party, as if no such survey had ever been made or applied for.

SEC. 184. Copies of said connecting maps shall also be furnished to the Commissioner of the General Land Office, who shall cause the same to be continuously perfected, as hereinbefore prescribed as to other offices.

SEC. 185. If any Surveyor General, wilfully or negligently omits to

promptly perform the duties prescribed in this chapter, it shall be considered sufficient cause for his dismissal from office.

SEC. 186. If at any time after application for survey, and prior to application for patent, it shall be proved, after personal notice to the mineral claimant, to the satisfaction of the Register of the proper land district, that said claimant has left his surveyed claim with the intention of not complying with the provisions of this chapter, the right of said claimant shall cease and determine, after notice in the usual form to the claimant of said decision by the district Register; and in the absence of appeal to the Commissioner of the General Land Office, the latter officer shall cause the cancellation of the said survey, as hereinbefore provided.

SEC. 187. The Surveyors General of the United States may appoint in their respective districts as many competent surveyors, furnishing satisfactory evidence of professional capacity, and giving bond in the penal sum of \$10,000, as shall apply for appointment to survey mineral claims. The expense of surveying claims shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates; and they shall also be at liberty to employ any United States deputy surveyor to make the survey.

SEC. 188. The Commissioner of the General Land Office shall also have power to establish the maximum of charges for surveying, and any deputy surveyor proved to have exceeded this maximum shall forfeit his commission, and shall not thereafter be eligible for appointment.

SEC. 189. All affidavits required to be made under this chapter may be verified before any judge or clerk of a court of record, or before any officer authorized to administer oaths, whose official capacity shall be properly verified; and all testimony and proofs may be taken before any such officer, and when duly certified by the officer taking the same shall have the same force and effect as if taken before the Register of the land office. In cases of contest as to the mineral or agricultural character of the land, the testimony and proofs may be taken as herein provided, on personal notice of at least ten days to the opposing party, or if such party cannot be found, then by the publication of at least once a week for thirty days in a newspaper to be designated by the Register of the land office as published nearest to the location of such land, and the Register shall require proof that such notice has been given.

SEC. 190. All rights which have attached to mining claims under previous acts of Congress shall not be affected by the operations of this chapter: *Provided*, That where such claims have not been or shall not within one year thereafter be consummated by the required payment of purchase money, such unconsummated claims shall lapse, and the land embraced therein shall thereafter be subject only to the operations of this chapter.

SEC. 191. Where land is used or occupied by the proprietor of a mining claim for mining or mill purposes, such land may be embraced and included in an application for a patent for such mining claim, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to mineral claims; but no location hereafter made of such mill-site shall exceed five acres, and the same must be paid for at the same rate as fixed by this chapter for the superficies of the mineral claim. The owner of reduction works, not owning a mine in connection therewith, may also receive a patent for his mill-site as provided in this section.

SEC. 192. As a condition of sale, in the absence of necessary legisla-

tion by Congress, the local Legislature of any State or Territory may provide rules for working mines, involving easements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

SEC. 193. Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same, and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

SEC. 194. All patents granted, or pre-emption or homesteads allowed, shall be subject to any vested and accrued water-rights, or rights to ditches and reservoirs used in connection with such water-rights, as may have been acquired under or recognized by the preceding section.

SEC. 195. Wherever, upon the lands heretofore improperly designated as mineral lands, which have been excluded from survey or sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar, lead, copper, coal, iron, or other valuable deposit discovered, and which are properly agricultural lands, the settlers or owners of such homesteads shall have a right to avail themselves of the provisions of chapter sixth of this title, relating to homesteads.

SEC. 196. Upon the survey of the lands described in the preceding section, the Secretary of the Interior may designate and set apart such portions of the same as are clearly agricultural lands, which lands shall thereafter be subject to homestead and sale as other public lands, and be subject to all the laws and regulations applicable to the same.

SEC. 197. The President is authorized to establish additional land districts, and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of this chapter.

SEC. 198. The provisions of the preceding sections of this chapter shall not apply to the mineral lands situated in the States of Michigan, Wisconsin, and Minnesota, which are declared free and open to exploration and purchase, according to legal subdivisions, in like manner as before the tenth day of May, eighteen hundred and seventy-two. And any *bona fide* entries of such lands within the States named, since the tenth day of May, eighteen hundred and seventy-two, may be patented without reference to any of the foregoing provisions of this chapter. Such lands shall be offered for public sale in the same manner, at the same minimum price, and under the same rights of pre-emption as other public lands.

SEC. 199. No act passed by Congress, granting lands to States or corporations to aid in the construction of roads or for other purposes, or to extend the time of such grants, shall be so construed as to embrace mineral lands, which in all cases are reserved exclusively to the United States, unless otherwise specially provided in the act or acts making the grant.

SEC. 200. Section 2323 of the Revised Statutes of the United States, relating to tunnel rights, is hereby repealed.

SEC. 201. Every person above the age of twenty-one years, who is a citizen of the United States, or who has declared his intention to become such, or any association of persons severally qualified as above, shall, upon application to the Register of the proper land office, have the right to enter, by legal subdivisions in a compact body, any quantity of vacant public lands of the United States containing coal and iron valuable for domestic or commercial purposes, not exceeding three hundred and twenty acres, and not otherwise appropriated or reserved by competent authority, upon payment to the Register of not less than ten dollars per acre for such lands.

SEC. 202. Where any such person or association of persons shall have opened or improved any coal or iron mine upon unsurveyed public lands, and shall be in actual possession of the same, such person or association shall be entitled after survey to a preference right of entry of such lands: *Provided*, That said entry shall be effected within sixty days after publication of notice of return of the township plat to the district land office.

SEC. 203. The two preceding sections shall be held to authorize only one entry by the same person or association of persons; and no association of persons, any member of which shall have taken the benefit of such sections either as an individual or as a member of any other association, shall hold or enter any other lands under the provisions thereof; and no member of any association which shall have taken the benefit of such sections shall enter or hold any other lands under their provisions.

SEC. 204. In case of conflicting claims for the purchase of coal or iron lands, where the right of either party was initiated when the lands were unsurveyed, priority of possession and improvement, followed by continuous and *bona fide* occupation, shall determine the preference right to purchase; but joint purchase shall be allowable on consent of the parties, or when, in the judgment of the Commissioner of the General Land Office, the conflict was created without notice of any prior claim.

SEC. 205. Nothing in the four preceding sections shall be construed to destroy or impair any rights which may have attached prior to the passage of this act, or to authorize the sale of lands valuable for mines of gold, silver, or copper. The Commissioner of the General Land Office is authorized to issue all needful rules and regulations for carrying into effect the provisions of this and the four preceding sections.

CHAPTER XIII.

PRIVATE LAND CLAIMS.

SEC. 206. It shall and may be lawful for any person or persons, or their legal representatives, claiming lands within the limits of the territory derived by the United States from the Republic of Mexico and now embraced within the Territories of New Mexico, Wyoming, Arizona, or Utah, or within the States of Nevada or Colorado, by virtue of such lawful Spanish or Mexican grant, concession, warrant, or survey as the United States are bound to recognize by virtue of the treaties of cession of said country by Mexico to the United States, which, at the date of the passage of this act, have not been confirmed by act of Congress, or otherwise decided upon by lawful authority, in every such case to present a petition, in writing, to the judge of the district court of the United States in a State or Territory for the judicial district in which

such lands may be situate, setting forth fully the nature of their claims to the lands, and particularly stating the date and form of the grant, concession, warrant, or order of survey under which they claim, by whom made, the name or names of any person or persons in possession of or claiming the same, or any part thereof, otherwise than by the lease or permission of the petitioner; and, also, the quantity of land claimed and the boundaries thereof, where situate, with a map showing the same as near as may be; and whether the said claim has heretofore been confirmed, considered, or acted upon by Congress, or the authorities of the United States, or been heretofore submitted to any authorities constituted by law for the adjustment of land titles within the limits of the said territory so acquired, and by them reported on unfavorably or recommended for confirmation, or authorized to be surveyed or not; and praying in such petition that the validity of such title or claim may be inquired into and decided. And the said courts respectively are hereby authorized and required to take and exercise jurisdiction of all cases or claims presented by petition in conformity with the provisions of this act, and to hear and determine the same, as hereinafter provided, on the petition and proofs in case no answer or answers be filed after due notice, or on the petition and the answer or answers of any person or persons interested in preventing any claim from being established, and the answer of the district attorney, where he may have filed an answer, and such testimony and proofs as may be taken; and a copy of such petition, with a citation to any adverse possessor or claimant, shall, immediately after the filing of the same, be served on such possessor or claimant in the ordinary legal manner of serving such process in the proper State or Territory, and in like manner on the district attorney of the United States; and it shall be the duty of the United States attorney for the proper district, as also any adverse possessor or claimant, after service of petition and citation, as hereinbefore provided, within thirty days, unless further time shall, for good cause shown, be granted by the judge or court to whom said petition is presented, to enter an appearance, and plead, answer, or demur to said petition; and in default of such plea, answer, or demurrer being made within said thirty days, or within the further time which may have been granted as aforesaid, the court shall proceed to hear the cause on the petition and proofs, and render a final decree according to the provisions of this act; and in no case shall a decree be entered otherwise than upon full legal proof and hearing; and in every case the court shall require the petition to be sustained by satisfactory proofs, whether an answer or plea shall have been filed or not.

SEC. 207. All proceedings subsequent to the filing of said petition shall be conducted as near as may be according to the rules of the courts of equity in the proper Territory or court of the United States in the States, except that the answer of the attorney of the United States shall not be required to be verified by his oath, and no continuance shall be granted unless for good cause shown; and the said courts shall have full power and authority to hear and determine all questions arising in said case relative to the title of the claimants, the extent, locality, and boundaries of said claim, or other matters connected therewith, fit and proper to be heard and determined, and by a final decree to settle and determine the question of the validity of the title and the boundaries of the grant or claim presented for adjudication, according to the law of nations, the stipulations of the treaty concluded between the United States and the Republic of Mexico, at the city of Guadalupe Hidalgo, on the second day of February, in the year of our Lord one thousand eight

hundred and forty-eight, or the treaty concluded between the same powers at the city of Mexico, on the thirtieth day of December, in the year of our Lord one thousand eight hundred and fifty-three, and the laws and ordinances of the government from which it is alleged to have been derived, and all other questions properly arising between the claimants or other parties in the case and the United States, which decree shall in all cases refer to the treaty, law, or ordinance under which such claim is confirmed or rejected; and in all cases the party against whom the judgment or decree of said district court may be finally rendered shall be entitled to an appeal to the supreme court of the proper Territory, or if the case be in a United States court in a State, to the Supreme Court of the United States, which shall be taken and allowed in the manner now prescribed by law for taking appeals from said courts; which Supreme Court shall retry the cause, as well the issues or questions of fact as of law, and may hear testimony in addition to that given in the court below; and either party shall be allowed one year in which to appeal from the decision of the supreme court of such Territory or the district court in a State to the Supreme Court of the United States, in which court every question shall be open, and whose decision shall be final and conclusive; and should no appeal be taken, the judgment or the decree of the said district court shall in like manner be final and conclusive, as also the decision of the supreme court of the Territory unless appealed from.

SEC. 208. The testimony which has been heretofore lawfully and regularly received by the Surveyor-General of the proper Territory or State, or by the Commissioner of the General Land Office, upon all claims presented to them respectively, shall be admitted in evidence in all trials under this act when the person testifying is dead, so far as the subject-matter thereof is competent evidence; and the court shall give it such weight as, in its judgment, under all the circumstances, it ought to have.

SEC. 209. It shall be the duty of the Commissioner of the General Land Office of the United States, the Surveyor-Generals of such Territories and States, or the keeper of any public records who may have possession of the records and testimony pertaining to any land-grants or claims for land within said States and Territories, in relation to which any petition shall be brought under this act, on the application of any person interested, or by the attorney of the United States for either of said Territories or districts, to furnish copies of such records and testimony, certified under his official signature, with the seal of office thereto annexed, if there be a seal of office; which copies, if the originals are not within the jurisdiction of the court, shall have the same effect as testimony that the originals would have if produced. The legal fees shall be paid for such copies by the parties applying for the same, except the attorney of the United States.

SEC. 210. The provisions of this act shall extend only to such claims as may be presented and filed within three years from the date of its passage; and all petitions under this act may be presented in vacation or term-time, but the final hearing on the same shall be had and the final decree rendered only at the regular terms of the district courts; and the judges of said district courts and the supreme courts in the said Territories are hereby authorized, in vacation, in all cases arising under this act, to grant all orders for taking testimony, or otherwise to hear and dispose of all motions, and do all other things necessary to be done to bring the same on to a final hearing.

SEC. 211. Upon the final decision of any claim prosecuted under this act, in favor of the claimant or claimants, it shall be the duty of the

clerk of the court in which such final decree is had to transmit a duly certified copy of the decree to the Surveyor-General of the proper Territory, who shall thereupon cause the lands specified in said decree to be surveyed at the expense of the United States. Triplicate plats and certificates of the survey so made shall be returned into his office, one of which shall remain in his office, and one, duly authenticated, shall be delivered, on demand, to the party interested therein, and one shall be sent to the Commissioner of the General Land Office; on receipt and approval of which survey and plat by said Commissioner the President of the United States shall issue a patent to said claimant, subject to the provisions of this act; but one-half the necessary expense of making such survey and plat shall be paid by the claimant, and shall be a lien on said land, which may be enforced by sale of so much thereof as shall be necessary for that purpose, after a default of payment thereof for six months next after the approval of such survey and plat; and no patent shall issue until such payment.

SEC. 212. The clerk of the court in which such petition may be filed shall, and he is hereby directed, when any petition or claim is filed under the provisions of this act, before any proceedings thereon, subject to the direction of a judge, to require reasonable security for all costs and charges which may accrue thereon in prosecuting the same to a final decree; and the district attorney, clerk, marshal, and witnesses shall severally be allowed such fees for their services and attendance as may be allowed by law for the like services and attendance in the United States courts for the proper State or Territory.

SEC. 213. It shall be the duty of the attorney of the United States for the proper Territory, in every case when the decision or decree of the district court is against the United States, to appeal the cause to the supreme court of the Territory; and if the decision of the latter court be against the United States, a copy of the decree, with a statement of the legal questions involved, shall be transmitted by the district attorney to the Attorney-General; and in like manner he shall transmit a copy of the decree in any case in the district court in a State, and, unless the Attorney-General shall otherwise direct, the district attorney shall appeal the cause to the Supreme Court of the United States.

SEC. 214. If in any case it shall so happen that the lands decreed to any claimant under the provisions of this act shall have been sold or granted for a valuable consideration by the United States, it shall be lawful for such claimants, or their legal representatives, at any time within one year after the rendition of the final decree in their favor, to execute and file, in the office of the Commissioner of the General Land Office, a release to the United States of all right, title, or claim to the land so sold or granted by the United States; and thereupon there shall be issued by the said Commissioner (under such regulations as may be prescribed by the Secretary of the Interior), to such claimant or his legal representatives, scrip for an equal amount of acres so released in quantities not exceeding six hundred and forty acres each, which scrip shall be assignable in such form as may be prescribed by said Secretary, and shall be receivable in payment for any public lands in either of said Territories or States respectively that may be subject to private entry.

SEC. 215. The provisions of this act shall extend to any city lot, town lot, village lot, farm lot, or pasture lot held under a grant from any corporation or town to which lands may have been lawfully granted for the establishment of a city, town, or village by the Spanish or Mexican Government, or the lawful authorities thereof; but the claim for said

city, town, or village shall be presented by the corporate authorities of the said city, town, or village, or, where the land upon which said city, town, or village is situated was originally granted to an individual, the claim shall be presented by or in the name of said individual.

SEC. 216. All claims which are capable of being prosecuted under the provisions of this act shall, after three years from the taking effect of this act, if no petition in respect to the same shall have been filed as he enjoined provided, be deemed and taken, in all courts and elsewhere, to be abandoned, and shall be forever barred.

SEC. 217. All the foregoing proceedings and rights shall be conducted and decided, subject to the following provisions, as well as to the other provisions of this act, namely:

First. No claim shall be allowed that shall not appear to be upon a title lawfully and regularly derived from the Government of Spain or Mexico, or, if incomplete, one that at the date of the acquisition of the territory by the United States the claimant would have had a lawful right to make perfect, had the territory not been acquired by the United States, and that the United States are bound upon the principles of public law, or by the provisions of the treaty of cession, to respect and permit to become complete and perfect.

Second. No claim shall be allowed that shall interfere with or overthrow any just and unextinguished Indian title or right to any land or place.

Third. No allowance or confirmation of any claim shall confer any right or title to any gold, silver, or quicksilver mines or minerals, unless the grant claimed effected the donation or sale of such mines or minerals to the grantee; but all such mines and minerals shall remain the property of the United States, with the right of working the same, which fact shall be stated in any patents issued under this act.

Fourth. No claim shall be allowed for any land the right to which has hitherto been lawfully acted upon and decided by Congress, or under its authority.

Fifth. No proceeding, decree, or act under this chapter shall conclude or affect the private rights of persons as between each other; all which rights shall be reserved and saved to the same effect as if this act had not been passed; but the proceedings, decrees, and acts herein provided for shall be conclusive of all rights as between the United States and all persons claiming any interest or right in such lands.

Sixth. No confirmation of or decree concerning any claim under this chapter shall in any manner operate or have effect against the United States otherwise than as a release by the United States of its right and title to the land confirmed; nor shall it operate to make the United States in any manner liable in respect of any such grants, claims, or lands, or their disposition, otherwise than as herein provided.

Seventh. No confirmation shall in any case be made or patent issued for a greater quantity than eleven square leagues of land, to or in the right of any one original grantee or claimant, nor for a greater quantity than was authorized by the respective laws of Spain or Mexico applicable to the claim.

SEC. 218. Section eight of the act of Congress approved July twenty-second, anno Domini eighteen hundred and fifty-four, entitled "An act to establish the offices of surveyor-general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes," and all acts amendatory or in extension thereof, or supplementing thereto, and all provisions of law inconsistent with this chapter shall be, and the same are hereby, repealed.

SEC. 219. In case of any claim to land in any State or Territory which has heretofore been confirmed by law, and in which no provision is made by the confirmatory statute for the issue of a patent, it may be lawful, where surveys for the land have been or may hereafter be made, to issue patents for the claims so confirmed, upon the presentation to the Commissioner of the General Land Office of plats of survey thereof, duly approved by the Surveyor General of any State or Territory, if the same be found correct by the Commissioner; but such patents shall only operate as a relinquishment of title on the part of the United States, and shall in no manner interfere with any valid adverse right to the same land, nor be construed to preclude a legal investigation and decision by the proper judicial tribunal between adverse claimants to the same land.

SEC. 220. Where persons in good faith and for a valuable consideration have purchased lands of Mexican grantees, or assigns, which grants have subsequently been rejected, or where the lands so purchased have been excluded from the final survey of any Mexican Grant, and have used, improved, and continued in the actual possession of the same as according to the lines of their original purchase, such purchasers shall have the right to purchase the same, after having such lands surveyed under existing laws, at one dollar and twenty-five cents per acre, upon making proof of the facts as required in this section, under regulations to be provided by the Commissioner of the General Land Office, joint entries being admissible by coterminous proprietors to such an extent as will enable them to adjust their respective boundaries: *Provided*, That the provisions of this section shall not be applicable to any city or town, nor shall the right to purchase herein given extend to lands containing mines of gold, silver, copper, or cinnabar.

SEC. 221. In all cases of confirmation by the first section of the act of Congress approved June second, eighteen hundred and fifty-eight, entitled "An act to provide for the location of certain confirmed private land-claims in the State of Missouri, and for other purposes," and in all cases of final decisions in favor of land claimants made by the commissioners under section four of the act of Congress approved March third, eighteen hundred and seven, entitled "An act respecting claims to land in the Territories of Orleans and Louisiana," or where any private land claim had been confirmed by Congress before June second, eighteen hundred and fifty-eight, and the same, in whole or in part, had not been located or satisfied, either for want of a specific location prior to such confirmation, or for any reason whatsoever, other than a discovery of fraud in such claim subsequent to such confirmation, the confirmees, or their heirs or legal representatives, may proceed by petition against the United States for certificates of location for a quantity of land equal to that so confirmed and unsatisfied, in any district court of the United States within whose jurisdiction any part of such claim may lie; and the petition shall be verified by the oath of the petitioners, and conform to the practice of the courts in cases arising under the act of Congress approved June twenty-second, eighteen hundred and sixty, entitled "An act for the final adjustment of private land claims in the States of Florida, Louisiana, and Missouri, and for other purposes," and the acts reviving or amending said act; and the attorney of the United States for such district shall defend against the same for the United States; and the case shall be adjudged as equity and justice may require, and if it shall appear to the court, upon satisfactory proof, that such claim has been so confirmed, and that the same, in whole or in part, remains unsatisfied, the court shall decree accordingly and order certificates of location

to be issued to the petitioners in the manner provided by an act of Congress approved January twenty-eighth, eighteen hundred and seventy-nine, entitled "An act defining the manner in which certain land-scrip may be assigned and located, or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representatives, which certificates shall be divisible, assignable, locatable, and patentable according to the provisions of said act of January twenty-eighth, eighteen hundred and seventy-nine."

SEC. 222. The decree so rendered, whether for or against the United States, shall be final, unless the area or aggregate of the certificates of location claimed in the petition shall exceed, at a valuation of a dollar and a quarter an acre, the sum of five thousand dollars, in which case, if the decree be against the United States, an appeal may be entered to the Supreme Court of the United States, and if it be against the petitioners, they may take an appeal directly to that court, as of right and course, without affidavit or security other than for costs; and the appeal shall be adjudged *de novo* in the Supreme Court, as in other cases of appeals thereto in chancery, and as the principles of this act may require; and the decision of the Supreme Court shall be final.

SEC. 223. So much of the act of Congress approved June second, eighteen hundred and fifty-eight, chapter eighty-one, or of any other act of Congress, as authorizes executive officers of the United States, in their judgment and discretion, to allow indemnity locations, floats, scrips, or certificates of location, on behalf of confirmed private land-claims which come within the purview of this act, be, and the same is hereby, repealed.

CHAPTER XIV.

STATE SELECTIONS.

SEC. 224. The several grants of public lands heretofore made to the several States shall be adjusted in accordance with the laws of Congress now in force; but the States which may hereafter be admitted into the Union shall be entitled only to such grants of lands as may be specifically provided for in their several enabling acts.

SEC. 225. The lands appropriated by section one hundred and ten shall be selected within the same land district, in accordance with the following principles of adjustment, to wit: For each township or fractional township containing a greater quantity of land than three-quarters of an entire township, one section; for a fractional township containing a greater quantity of land than one-half and not more than three-quarters of a township, three-quarters of a section; for a fractional township containing a greater quantity of land than one-quarter and not more than one-half of a township, one-half section; and for a fractional township containing a greater quantity of land than one entire section and not more than one-quarter of a township, one-quarter section of land.

SEC. 226. It shall be the duty of the Commissioner of the General Land Office to cause patents conveying the legal title to be issued to the several States for all lands, not heretofore certified under existing laws and regulations, which have been or may hereafter be granted to them for any purpose whatever: *Provided*, That where grants of lands have been made to a State for a specific purpose, and such State shall have transferred its interest in the lands to any corporation or individual, patents shall be issued to such corporation or individual on compli-

ance with the terms and conditions of the granting act; but nothing herein contained shall be construed to revive or continue the provisions of any grant beyond the period fixed by law: *Provided*, That where lands have been heretofore certified without authority of law, or in excess of the grant, the Commissioner of the General Land Office shall treat such certifications as absolutely null and void, and shall dispose of the lands covered thereby under the public land laws applicable thereto in the same manner and to the same extent as if no such unlawful or excessive certifications had been made, but innocent purchasers under color of title from such illegal certifications shall, in the absence of valid adverse right, have a preference right to purchase from the United States at one dollar and twenty-five cents per acre.

CHAPTER XV.

BOUNTY LANDS.

SEC. 227. All warrants for military bounty-lands which have been or may hereafter be issued under any law of the United States, and all valid locations of the same which have been or may hereafter be made, are declared to be assignable by deed or instrument of writing, made and executed according to such form and pursuant to such regulations as may be prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owner of the warrant or location.

SEC. 228. The warrants which have been or may hereafter be issued in pursuance of law may be located according to the legal subdivisions of the public lands in one body upon any lands of the United States subject to private entry at the time of such location at the minimum price. When such warrant is located on lands which are subject to entry at a greater minimum than one dollar and twenty-five cents per acre, the locator shall pay to the United States in cash the difference between the value of such warrants at one dollar and twenty-five cents per acre and the tract of land located on. But where such tract is rated at one dollar and twenty-five cents per acre, and does not exceed the area specified in the warrant, it must be taken in full satisfaction thereof.

SEC. 229. In all cases of warrants for bounty-lands, issued by virtue of an act approved July twenty-seven, one thousand eight hundred and forty-two, and of two acts approved January twenty-seven, one thousand eight hundred and thirty-five, therein and thereby revised, and of two acts to the same intent, respectively, approved June twenty-six, eighteen hundred and forty-eight, and February eight, eighteen hundred and fifty-four, for military services in the revolutionary war, or in the war of eighteen hundred and twelve with Great Britain, which remained unsatisfied on the second day of July, eighteen hundred and sixty-four, it is lawful for the person in whose name such warrant issued, his heirs or legal representatives, to enter in quarter sections, at the proper local land office in any of the States or Territories, the quantity of the public lands subject to private entry which he is entitled to under such warrant.

SEC. 230. All warrants for bounty-lands referred to in the preceding section may be located at any time in conformity with the general laws in force at the time of such location.

SEC. 231. Each of the surviving, or the widow or minor children of

deceased, commissioned and non-commissioned officers, musicians, or privates, whether of regulars, volunteers, rangers, or militia, who performed military service in any regiment, company, or detachment, in the service of the United States, in the war with Great Britain, declared on the eighteenth day of June, eighteen hundred and twelve, or in any of the Indian wars since seventeen hundred and ninety, and prior to the third of March, eighteen hundred and fifty, and each of the commissioned officers who was engaged in the military service of the United States in the war with Mexico, shall be entitled to lands as follows: Those who engaged to serve twelve months or during the war, and actually served nine months, shall receive one hundred and sixty acres; and those who engaged to serve six months, and actually served four months, shall receive eighty acres, and those who engaged to serve for any or an indefinite period, and actually served one month, shall receive forty acres; but wherever any officer or soldier was honorably discharged, in consequence of disability contracted in the service, before the expiration of his period of service, he shall receive the amount to which he would have been entitled if he had served the full period for which he had engaged to serve. All the persons enumerated in this section who enlisted in the regular army, or were mustered in any volunteer company for a period of not less than twelve months, and who served in the war with Mexico and received an honorable discharge, or who were killed or died of wounds received, or sickness incurred in the course of such service, or were discharged before the expiration of the term of service in consequence of wounds received or sickness incurred in the course of such service, shall be entitled to receive a certificate or warrant for one hundred and sixty acres of land; or at option Treasury scrip for one hundred dollars bearing interest at six per cent. per annum, payable semi-annually, at the pleasure of the Government. In the event of the death of any one of the persons mentioned in this section during service, or after his discharge, and before the issuing of a certificate or warrant, the warrant or scrip shall be issued in favor of his family or relatives; first, to the widow and his children; second, his father; third, his mother; fourth, his brothers and sisters.

Sec. 232. The persons enumerated in the preceding section received into service after the commencement of the war with Mexico, for less than twelve months, and who served such term, or were honorably discharged, are entitled to receive a certificate or warrant for forty acres, or scrip for twenty-five dollars if preferred, and in the event of the death of such person during service, or after honorable discharge before the eleventh of February, eighteen hundred and forty-seven, the warrant or scrip shall issue to the wife, child, or children, if there be any, and if none, to the father, and if no father, to the mother of such soldier.

Sec. 233. Where the militia, or volunteers, or State troops of any State or Territory, subsequent to the eighteenth day of June, eighteen hundred and twelve, and prior to March twenty-second, eighteen hundred and fifty-two, were called into service, the officers and soldiers thereof shall be entitled to all the benefits of section two thousand four hundred and eighteen of the Revised Statutes of the United States upon proof of length of service as therein required.

Sec. 234. No person shall take any benefit under the provisions of the three preceding sections, if he has received, or is entitled to receive, any military land-bounty under any act of Congress passed prior to the twenty-second March, eighteen hundred and fifty-two.

Sec. 235. The period during which any officer or soldier remained in captivity with the enemy shall be estimated and added to the period of

his actual service, and the person so retained in captivity shall receive land under the provisions of sections twenty-four hundred and eighteen and twenty-four hundred and twenty of the Revised Statutes of the United States, in the same manner that he would be entitled in case he had entered the service for the whole term made up by the addition of the time of his captivity, and had served during such term.

Sec. 236. Every person for whom provision is made by sections twenty-four hundred and eighteen and twenty-four hundred and twenty of the Revised Statutes of the United States shall receive a warrant from the Department of the Interior for the quantity of land to which he is entitled; and, upon the return for the quantity of land to which the location thereof having been legally made to the General Land-Office, a patent shall be issued therefor.

Sec. 237. In the event of the death of any person, for whom provision is made by said sections twenty-four hundred and eighteen and twenty-four hundred and twenty, and who did not receive bounty-land for his services, a like warrant shall issue in favor of his widow, who shall be entitled to one hundred and sixty acres of land in case her husband was killed in battle; nor shall a subsequent marriage impair the right of any widow to such warrant, if she be a widow at the time of making her application.

Sec. 238. Each of the surviving persons specified in the classes enumerated in the following section, who has served for a period of not less than fourteen days, in any of the wars in which the United States have been engaged since the year seventeen hundred and ninety, and prior to the third day of March, eighteen hundred and fifty-five, shall be entitled to receive a warrant from the Department of the Interior for one hundred and sixty acres of land; and, where any person so entitled has, prior to the third day of March, eighteen hundred and fifty-five, received a warrant for any number of acres less than one hundred and sixty, he shall be allowed a warrant for such quantity of land only as will make in the whole, with what he may have received prior to that date, one hundred and sixty acres.

Sec. 239. The classes of persons embraced as beneficiaries under the preceding section, are as follows, namely:

First. Commissioned and non-commissioned officers, musicians, and privates, whether of the regulars, volunteers, rangers, or militia, who were regularly mustered into the service of the United States.

Second. Commissioned and non-commissioned officers, seamen, ordinary seamen, flotilla-men, marines, clerks, and landsmen in the Navy.

Third. Militia, volunteers, and State troops of any State or Territory, called into military service, and regularly mustered therein, and whose services have been paid by the United States.

Fourth. Wagon-masters and teamsters who have been employed under the direction of competent authority, in time of war, in the transportation of military stores and supplies.

Fifth. Officers and soldiers of the revolutionary war, and marines, seamen, and other persons in the naval service of the United States during that war.

Sixth. Chaplains who served with the Army.

Seventh. Volunteers who served with the armed forces of the United States in any of the wars mentioned, subject to military orders, whether regularly mustered into the service of the United States or not.

Sec. 240. The following class of persons are included as beneficiaries under section twenty-four hundred and twenty-five of the Revised Stat-

utes of the United States, without regard to the length of service rendered.

First. Any of the classes of persons mentioned in the preceding section who have been actually engaged in any battle in any of the wars in which this country has been engaged since seventeen hundred and ninety, and prior to March third, eighteen hundred and fifty-five.

Second. Those volunteers who served at the invasion of Plattsburgh, in September, eighteen hundred and fourteen.

Third. The volunteers who served at the battle of King's Mountain, in the revolutionary war.

Fourth. The volunteers who served at the battle of Nickojack against the confederate savages of the south.

Fifth. The volunteers who served at the attack on Lewistown, in Delaware, by the British fleet, in the war of eighteen hundred and twelve.

SEC. 241. In the event of the death of any person who would be entitled to a warrant, as provided in section twenty-four hundred and twenty-five of the Revised Statutes of the United States, leaving a widow, or, if no widow, a minor child, such widow or such minor child shall receive a warrant for the same quantity of land that the decedent would be entitled to receive, if living on the third day of March, eighteen hundred and fifty-five.

SEC. 242. A subsequent marriage shall not impair the right of any widow, under the preceding section, if she be a widow at the time of her application.

SEC. 243. Persons within the age of twenty-one years on the third day of March, eighteen hundred and fifty-five, shall be considered minors within the intent of section twenty-four hundred and twenty-eight of the Revised Statutes of the United States.

SEC. 244. Where no record evidence of the service for which a warrant is claimed exists, parol evidence may be admitted to prove the service performed, under such regulations as the Commissioner of Pensions may prescribe.

SEC. 245. Where certificate or a warrant for bounty-land for any less quantity than one hundred and sixty acres has been issued to any officer or soldier, or to the widow or minor child of any officer or soldier, the evidence upon which such certificate or warrant was issued shall be received to establish the service of such officer or soldier in the application of himself, or of his widow or minor child, for a warrant for so much land as may be required to make up the full sum of one hundred and sixty acres, to which he may be entitled under the preceding section, on proof of the identity of such officer or soldier, or, in case of his death, of the marriage and identity of his widow, or, in case of her death, of the identity of his minor child. But if, upon a review of such evidence, the Commissioner of Pensions is not satisfied that the former warrant was properly granted, he may require additional evidence, as well of the term as of the fact of service.

SEC. 246. When any company, battalion, or regiment, in an organized form, marched more than twenty miles to the place where they were mustered into the service of the United States, or were discharged more than twenty miles from the place where such company, battalion, or regiment was organized, in all such cases, in computing the length of service of the officers and soldiers of any such company, battalion, or regiment, there shall be allowed one day for every twenty miles from the place where the company, battalion, or regiment was organized, to the place where the same was mustered into the service of the United

States, and one day for every twenty miles from the place where such company, battalion, or regiment was discharged, to the place where it was organized, and from whence it marched to enter the service, provided that such march was in obedience to the command or direction of the President, or some general officer of the United States, commanding an army or department, or the chief executive officer of the State or Territory by which such company, battalion, or regiment was called into service.

SEC. 247. The provisions of all the bounty-land laws shall be extended to Indians, in the same manner and to the same extent as to white persons.

SEC. 248. Where a pension has been granted to any officer or soldier, the evidence upon which such pension was granted shall be received to establish the service of such officer or soldier in his application for bounty-land; and upon proof of his identity as such pensioner, a warrant may be issued to him for the quantity of land to which he is entitled; and in case of the death of such pensioned officer or soldier, his widow shall be entitled to a warrant for the same quantity of land to which her husband would have been entitled, if living, upon proof that she is such widow; and in case of the death of such officer or soldier, leaving a minor child and no widow, or where the widow may have deceased before the issuing of any warrant, such minor child shall be entitled to a warrant for the same quantity of land as the father would have been entitled to receive if living, upon proof of the decease of father and mother. But if, upon a review of such evidence, the Commissioner of Pensions is not satisfied that the pension was properly granted, he may require additional evidence as well of the term as of the fact of service.

SEC. 249. All sales, mortgages, letters of attorney, or other instruments of writing, going to affect the title or claim to any warrant issued, or to be issued, or any land granted, or to be granted, under the preceding provisions of this chapter, made or executed prior to the issue of such warrant, shall be null and void to all intents and purposes whatsoever; nor shall such warrant, or the land obtained thereby, be in any wise affected by, or charged with, or subject to, the payment of any debt or claim incurred by any officer or soldier, prior to the issuing of the patent.

SEC. 250. It shall be the duty of the Commissioner of the General Land Office, under such regulations as may be prescribed by the Secretary of the Interior, to cause to be located, free of expense, any warrant which the holder may transmit to the General Land Office for that purpose, in such State or land district as the holder or warrantee may designate, and upon good firming land, so far as the same can be ascertained from the maps, plats, and field-notes of the surveyor, or from any other information in the possession of the local office, and, upon the location being made, the Secretary shall cause a patent to be transmitted to such warrantee or holder.

SEC. 251. No person who has been in the military service of the United States shall, in any case, receive a bounty-land warrant if it appears by the muster-rolls of his regiment or corps that he deserted or was dishonorably discharged from service.

SEC. 252. When a soldier of the Regular Army, who has obtained a military land-warrant, loses the same, or such warrant is destroyed by accident, he shall, upon proof thereof to the satisfaction of the Secretary of the Interior, be entitled to a patent in like manner as if the warrant was produced.

SEC. 253. In all cases of discharge from the military service of the United States of any soldier of the Regular Army, when it appears to the satisfaction of the Secretary of War that a certificate of faithful services has been omitted by the neglect of the discharging officer, by misconstruction of the law, or by any other neglect or casualty, such omission shall not prevent the issuing of the warrant and patent as in other cases. And when it is proved that any soldier of the Regular Army has lost his discharge and certificate of faithful service, the Secretary of War shall cause such papers to be furnished such soldier as will entitle him to his land-warrant and patent, provided such measure is justified by the time of his enlistment, the period of service, and the report of some officer of the corps to which he was attached.

SEC. 254. Whenever it appears that any certificate or warrant, issued in pursuance of any law granting bounty-land, has been lost or destroyed, whether the same has been sold and assigned by the warrantee or not, the Secretary of the Interior is required to cause a new certificate or warrant of like tenor to be issued in lieu thereof; which new certificate or warrant may be assigned, located, and patented in like manner as other certificates or warrants for bounty-land are now authorized by law to be assigned, located, and patented; and in all cases where warrants have been, or may be, re-issued, the original warrant, in whose hands it may be, shall be deemed and held to be null and void, and the assignment thereof, if any there be, fraudulent; and no patent shall ever issue for any land located therewith, unless such presumption of fraud in the assignment be removed by due proof that the same was executed by the warrantee in good faith and for a valuable consideration.

SEC. 255. The Secretary of the Interior is required to prescribe such regulations for carrying the preceding section into effect as he may deem necessary and proper in order to protect the government against imposition and fraud by persons claiming the benefit thereof; and all laws and parts of laws for the punishment of frauds against the United States are made applicable to frauds under that section.

SEC. 256. In all cases where an officer or soldier of the revolutionary war, or a soldier of the war of eighteen hundred and twelve, was entitled to bounty-land, has died before obtaining a patent for the land, and where application is made by a part only of the heirs of such deceased officer or soldier for such bounty-land, it shall be the duty of the Secretary of the Interior to issue the patent in the name of the heirs of such deceased officer or soldier, without specifying each; and the patent so issued in the name of the heirs, generally, shall inure to the benefit of the whole, in such portions as they are severally entitled to by the laws of descent in the State or Territory where the officer or soldier belonged at the time of his death.

SEC. 257. When proof has been or hereafter is filed in the Pension Office, during the life-time of a claimant, establishing, to the satisfaction of that office, his right to a warrant for military services, and such warrant has not been, or may not be, issued until after the death of the claimant, and all such warrants as have been heretofore issued subsequent to the death of the claimant, the title to such warrants shall vest in his widow, if there be one, and if there be no widow, then in the heirs or legatees of the claimant; and all military bounty-land warrants issued pursuant to law shall be treated as personal chattels, and may be conveyed by assignment of such widow, heirs, or legatees, or by the legal representatives of the deceased claimant, for the use of such heirs or legatees only.

SEC. 258. The legal representatives of a deceased claimant for a bounty-land warrant, whose claim was filed prior to his death, may file the proofs necessary to perfect such claim.

SEC. 259. Where an actual settler on the public lands has sought, or hereafter attempts, to locate the land settled on and improved by him, with a military bounty-land warrant, and where, from any cause, an error has occurred in making such location, he is authorized to relinquish the land so erroneously located, and to locate such warrants upon the land so settled upon and improved by him, if the same then be vacant, and if not, upon any other vacant land, on making proof of those facts to the satisfaction of the land-officers, according to such rules and regulations as may be prescribed by the Commissioner of the General Land Office, and subject to his final adjudication.

CHAPTER XVI.

MISCELLANEOUS PROVISIONS.

SEC. 260. The Secretary of the Interior is authorized to permit the purchase, with cash or military bounty-land warrants, of such lands as may have been located with claims arising under the seventh clause of the second article of the treaty of September thirty, eighteen hundred and fifty-four, at such price per acre as he deems equitable and proper, but not at a less price than one dollar and twenty-five cents per acre; and the owners and holders of such claims in good faith are also permitted to complete their entries and to perfect their titles under such claims upon compliance with the terms above mentioned; but it must be shown to the satisfaction of the Secretary of the Interior that such claims are held by innocent parties in good faith, and that the locations made under such claims have been made in good faith and by innocent holders of the same.

SEC. 261. In all cases in which land has heretofore or shall hereafter be given by the United States for military services, warrants shall be granted to the parties entitled to such land by the Secretary of the Interior; and such warrants shall be recorded in the General Land Office in books to be kept for the purpose, and shall be located as is, or may be, provided by law, and patents shall afterwards be issued accordingly.

SEC. 262. The gold coins of Great Britain and other foreign coins shall be received in all payments on account of public lands, at the value estimated annually by the Director of the Mint, and proclaimed by the Secretary of the Treasury, in accordance with the provisions of section thirty-five hundred and sixty-four of the Revised Statutes of the United States, title "The Coinage."

SEC. 263. In all cases of an application, entry or location hereafter made, of a tract of land not intended to be applied for, entered or located, by a mistake of the true numbers of the tract intended to be applied for, entered or located, where the certificate of the original applicant, purchaser or locator has not been assigned, or his right in any way transferred, the said applicant, purchaser or locator, or, in case of his death, the legal representatives, not being assignees or transferees, may file his or their affidavit, with such additional evidence as can be procured, showing the mistake of the numbers of the tract intended to be applied for, entered or located, and that every reasonable precaution

and exertion had been used to avoid the error, with the Register of the land district within which such tract of land is situated, who shall transmit the evidence, together with his written opinion to the Commissioner of the General Land Office; and if the said Commissioner shall be entirely satisfied that the mistake had been made to avoid it, he is a reasonable precaution and exertion had been made to avoid it, he is authorized to change the application, entry or location, and to transfer any payment made to that intended to be applied for, entered or located, if unsold; but, if sold, to any other tract liable to similar application, entry or location; but nothing herein contained shall affect the right of third persons.

SEC. 264. The provisions of the preceding section shall extend to all cases where patents may hereafter issue, but upon condition, however, that the party concerned surrenders his patent to the Commissioner of the General Land Office, with a relinquishment of title thereon, executed in a form to be prescribed by the Secretary of the Interior; and upon like surrender of any patent, with similar relinquishment of unincumbered title, the Commissioner of the General Land Office is authorized to reissue said patent, when necessary or proper to correct any error in description, or in names of parties, or in other material particular.

SEC. 265. Whenever any reservation of public lands is released by proper authority, said lands shall thereafter be subject to disposition, under the same laws and conditions, as other public lands of like classification, but at a price to be fixed by the Commissioner of the General Land Office.

SEC. 266. When, from any cause whatsoever, the United States hereafter refuse to issue patent, or other final evidence of title, to an applicant for any tract of public land, the Secretary of the Interior is authorized to repay to the applicant, or his legal representatives, the sum of money which was paid therefor, or in connection therewith, whether by way of fees, costs, or purchase money, out of any money in the Treasury not otherwise appropriated; and the Secretary is similarly authorized to repay excess payments which may have been, or shall be, illegally exacted. The appropriation herein provided for shall be deemed a permanent specific appropriation.

SEC. 267. Where the moneys, derived from the payments mentioned in the preceding section, have been invested in any stocks held in trust, or have been paid into the Treasury to the credit of any trust fund, it shall be lawful, by the sale of such portion of such stocks, as may be necessary for the purpose, or out of such trust fund, to repay the purchase money to the parties entitled thereto.

SEC. 268. Whenever proof shall be made, to the satisfaction of the Secretary of the Interior, that innocent parties have paid the fees or commissions, or excess payments, required upon the location of claims under section 2306 of the Revised Statutes of the United States, which said claims were, after such location, proved to be fraudulent and void, and the entries or locations made thereon canceled, the Secretary of the Interior is authorized to repay to such innocent parties the fees, or commissions, or excess payments paid by them, out of any money in the Treasury not otherwise appropriated.

SEC. 269. Where any actual settler shall have paid the double minimum rate for any lands on account of said land being, at the time of payment, within the granted or indemnity limits of a railroad grant, or the withdrawal for the same, and the location for the line of the road is subsequently changed, so that such lands are thrown outside of said limits, or it is discovered, by adjustment of the withdrawal, that such

lands are not within said limits, or said railroad grant shall be forfeited to the United States, and restored to the public domain, for failure to build such railroad, the Secretary of the Interior is authorized to repay to such actual settlers the sums paid by them in excess of the single minimum rate for public lands.

SEC. 270. Where patents for public lands have been or may be issued, in pursuance of any law of the United States, to a person who had died, or who hereafter dies, before the date of such patent, the title to the land designated therein shall inure to and become vested in the heirs, devisees, or assignees of such deceased patentee, as if the patent had issued to the deceased person during life.

SEC. 271. All scrip heretofore issued in pursuance of laws and receivable in payment of pre-emption or commuted homestead entries, may hereafter be located by the holders thereof, upon any public lands of the United States subject to entry under the homestead, irrigation, or pasturage laws: *Provided*, That said location shall be made within two years from the passage of this act.

SEC. 272. Where a party in possession of any part of the public lands of the United States fails, refuses, or omits to protect or evidence his right of possession, as required by the laws of the United States, and who has no claim of title under acts of Congress or treaty stipulation, the said land shall be deemed vacant public lands, and as such subject to the occupation and claim of any other person seeking to acquire title under any of the public land laws.

SEC. 273. It shall be the duty of the Commissioner of the General Land Office to take the requisite measures to ascertain all cases properly falling within the act of March 3, 1897, entitled "An act to prevent settlements being made on lands ceded to the United States until authorized by law," which act is hereby made part of this section, and he shall cause the same to be enforced in favor of parties seeking to acquire title under the public land laws.

SEC. 274. All navigable rivers, within the territory occupied by the public lands, shall remain and be deemed public highways; and in all cases where the opposite banks of any streams not navigable belong to different persons, the stream and the bed thereof shall become common to both.

SEC. 275. The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted; and all patents for public lands hereafter sold or granted by the United States shall contain a clause, reserving to the public an easement for highways.

SEC. 276. Where the United States have heretofore granted a special right of way over the public lands to any railroad company, and the same has not been fixed by actual location upon the earth's surface, together with *bona fide* occupation of the line located, the same shall hereafter be subject to all the conditions, limitations, and restrictions of the act entitled "An act granting to railroads the right of way through the public lands of the United States," approved March 3, 1875; or if said special right of way has been heretofore fixed by location and occupation only in part, the undivided and unoccupied part shall hereafter be subject as above prescribed.

SEC. 277. When a land grant to any railroad company falls in whole or in part upon lands classified as irrigable or pasturage lands, the Secretary of the Interior is hereby authorized upon the application of said railroad company, and when in his judgment the public interests will be subserved thereby, to exchange alternate reserved sections of the public lands for sections granted to said railroads so as to consolidate the re-

spective ownerships of the United States and of the company in separate blocks of not less than four contiguous sections each, and he is authorized to cause the requisite patents to be executed: *Provided*, That said railroad company shall first file with him the proper conveyances to the United States of the granted sections intended to be exchanged, with satisfactory proof that the title thereto is free and unincumbered in said company.

SEC. 278. The Commissioner of the General Land Office, under the directions of the Secretary of the Interior, is authorized to enforce and carry into execution, by appropriate regulations, every part of the provisions of this title not otherwise specially provided for.

CHAPTER XVII.

REPEAL PROVISIONS.

SEC. 279. The foregoing sixteen chapters embrace the statutes of the United States, general and permanent in their nature, and applicable to the survey and sale of the public lands in force on the day of , A. D. .

SEC. 280. All acts of Congress passed prior to said , A. D. , any portion of which is embraced in any section of the foregoing laws, are hereby repealed, and the section applicable thereto shall be in force in lieu thereof; all parts of such acts not contained in the foregoing laws, having been repealed or superseded by subsequent acts or not being general and permanent in their nature: *Provided*, That the incorporation into the foregoing laws of any general and permanent provision, taken from an act making appropriations or from an act containing other provisions of a private, local, or temporary character shall not repeal or in any way affect any appropriation, or any provision of a private, local, or temporary character, contained in any of said acts, but the same shall remain in force; and all acts of Congress passed prior to said last named day, no part of which are embraced in the foregoing laws, shall not be affected or changed by its enactment.

SEC. 281. The repeal of the several acts embraced in the foregoing laws shall not affect any act done, or any right accruing or accrued before said repeal.

SEC. 282. The arrangement and classification of the several sections of the foregoing laws have been made for the purpose of a more convenient and orderly arrangement of the same, and therefore no inference or presumption of a legislative construction is to be drawn by reason of the chapter under which any particular section is placed; nor shall any part of this act be construed to affect the term of service of present officers, excepting those herein specifically abolished.

END OF
TITLE